

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

THE ARIZONA
DEMOCRATIC PARTY, ET
AL.,

Plaintiffs -
Appellees,

v.

KATIE HOBBS, ET AL.,

Defendants,

and

STATE OF ARIZONA,
REPUBLICAN NATIONAL
COMMITTEE, ARIZONA
REPUBLICAN PARTY, AND
DONALD J. TRUMP FOR
PRESIDENT, INC.,

Intervenor-
Defendants-
Appellants.

No. 20-16759

No. 20-16766

D.C. No. 2:20-cv-01143-DLR
U.S. District Court for Arizona,
Phoenix

**APPELLEES' RESPONSE
IN OPPOSITION TO
APPELLANTS' MOTIONS TO
STAY PENDING APPEAL**

Table of Contents

	Page(s)
Factual and Procedural Background	3
Corporate Disclosure Statement	5
Argument.....	6
I. The State Has Failed to Establish Irreparable Injury.....	6
A. The State’s “ <i>Per Se</i> ” Irreparable Harm Theory Is Factually Irrelevant and Legally Incorrect.	7
B. Any Administrative Burdens of the Injunction Would be Minimal and Fall Far Short of Irreparable Harm.	9
C. The Injunction Would Benefit the State’s Interests.	10
II. The State Is Unlikely to Succeed in Its Appeal.....	11
A. Appellees Have Standing.	11
1. ADP Has Associational Standing.....	11
2. ADP Has Organizational Standing.....	13
B. The Inadequate Cure Period Is Unconstitutional.	15
1. The Inadequate Cure Period Unduly Burdens the Right to Vote.....	15
2. The Inadequate Cure Period Violates Procedural Due Process.....	21
C. The District Court Did Not Abuse Its Discretion in Issuing an Injunction.....	24
III. The Balance of Hardships and Public Interest Tip in Appellees’ Favor.	26
A. A Stay Would Substantially Injure Appellees.	26
B. The Public Interest Weighs Against a Stay.....	27
Conclusion	31

Table of Authorities

CASES	PAGE(S)
<i>Al Otro Lado v. Wolf</i> , 952 F.3d 999 (9th Cir. 2020).....	passim
<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983).....	passim
<i>Ariz. Libertarian Party v. Reagan</i> , 798 F.3d 723 (9th Cir. 2015).....	18, 19
<i>Burdick v. Takushi</i> , 504 U.S. 428 (1992).....	16
<i>Coalition for Economic Equity v. Wilson</i> , 122 F.3d 718 (9th Cir. 1997).....	8
<i>Doe #1 v. Trump</i> , 957 F.3d 1050 (9th Cir. 2020).....	6, 10, 11
<i>Doe v. Kelly</i> , 878 F.3d 710 (9th Cir. 2017).....	25
<i>Dudum v. Arntz</i> , 640 F.3d 1098 (9th Cir. 2011)	22
<i>Fla. Democratic Party v. Detzner</i> , No. 16cv607, 2016 WL 6090943 (N.D. Fla. Oct. 16, 2016).....	13
<i>Franceschi v. Yee</i> , 887 F.3d 927 (9th Cir. 2018).....	22
<i>Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.</i> , 528 U.S. 167 (2000).....	12
<i>Harper v. Va. State Bd. of Elections</i> , 383 U.S. 663 (1966) (holding poll tax added in 1902 unconstitutional).....	27

<i>Indep. Living Ctr. of S. Cal., Inc. v. Maxwell-Jolly</i> , 572 F.3d 644 (9th Cir. 2009), <i>vacated and remanded on</i> <i>other grounds sub nom. Douglas v. Indep. Living Ctr. of S.</i> <i>Cal., Inc.</i> , 565 U.S. 606 (2012)	7, 8
<i>L.A. Mem’l Coliseum Comm’n v. Nat’l Football League</i> , 634 F.2d 1197 (9th Cir. 1980)	25
<i>Latta v. Otter</i> , 771 F.3d 496 (9th Cir. 2014)	8
<i>League of Women Voters of N.C. v. North Carolina</i> , 769 F.3d 224 (4th Cir. 2014)	26, 28
<i>Leiva-Perez v. Holder</i> , 640 F.3d 962 (9th Cir. 2011)	6
<i>Lemons v. Bradbury</i> , 538 F.3d 1098 (9th Cir. 2008)	22, 23
<i>Libertarian Party of N.H. v. Gardner</i> , 843 F.3d 20 (1st Cir. 2016)	15
<i>Martin v. Kemp</i> , 341 F.Supp.3d 1326 (N.D. Ga. 2018)	15, 23
<i>Maryland v. King</i> , 133 S. Ct. 1 (2012)	8
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	22, 23
<i>Nader v. Brewer</i> , 531 F.3d 1028 (9th Cir. 2008)	21
<i>Nat’l Council of La Raza v. Cegavske</i> , 800 F.3d 1032 (9th Cir. 2015)	12, 13
<i>Ohio State Conf. of N.A.A.C.P. v. Husted</i> , 768 F.3d 524 (6th Cir. 2014), <i>vacated on other grounds</i> , No. 14-3877, 2014 WL 10384647 (6th Cir. Oct. 1, 2014)	20

<i>Ohio State Conf. of N.A.A.C.P. v. Husted</i> , 769 F.3d 385 (6th Cir. 2014), <i>aff'd</i> , 768 F.3d 524.....	28, 30
<i>Ollier v. Sweetwater Union High Sch. Dist.</i> , 768 F.3d 843 (9th Cir. 2014).....	11
<i>Owen v. Mulligan</i> , 640 F.2d 1130 (9th Cir. 1981).....	14
<i>People First of Ala. v. Sec’y of State for Ala.</i> , 815 F. App’x 505 (11th Cir. 2020).....	2, 28
<i>Protect Marriage Ill. v. Orr</i> , 463 F.3d 604 (7th Cir. 2006).....	23
<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006) (per curiam)	28, 29, 30, 31
<i>Republican Nat’l Comm. v. Common Cause R.I.</i> , No. 20A28, 2020 WL 4680151 (U.S. Aug. 13, 2020).....	28
<i>Rizk v. Holder</i> , 629 F.3d 1083 (9th Cir. 2011).....	6
<i>Rodriguez v. City of San Jose</i> , 930 F.3d 1123 (9th Cir. 2019).....	13
<i>Sierra Club v. Trump</i> , 963 F.3d 874 (9th Cir. 2020).....	8
<i>Soltysik v. Padilla</i> , 910 F.3d 438 (9th Cir. 2018).....	20, 22
<i>United States v. City of Los Angeles</i> , 288 F.3d 391 (9th Cir. 2002).....	19
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	24, 25
STATUTES	
A.R.S. § 16-452(B)	4, 5

A.R.S. § 16-541	3
A.R.S. § 16-548	3
A.R.S. § 16-550(A)	3

This case involves Arizona’s failure to provide voters who do not sign their mail ballots the post-election opportunity to cure that error before the ballot is rejected.¹ By contrast, Arizona does provide a five-day post-election cure period for voters whose ballots are flagged for rejection based on a perceived mismatched signature.² Each election, the Inadequate Cure Period results in the rejection of thousands of ballots. These are ballots of lawful voters who made a simple mistake. But because of the Inadequate Cure Period, they are disenfranchised.

The State’s Chief Election Officer, the Defendant Secretary of State (“Secretary”), sought to fill the gap in state law leading to this illogical and unjustifiable result. After the Attorney General refused to approve the Secretary’s proposed fix, Appellees filed suit and sought an order from the district court requiring Arizona to provide the same post-election cure period for both types of mail voters—those whose ballots are flagged for rejection based on a missing signature, and those flagged for rejection

¹ This brief provides Appellees’ response to the motions to stay of the Intervenor-Appellants State of Arizona (“State”) and Republican National Committee, Arizona Republican Party, and Donald J. Trump for President (collectively, “RNC”), and amicus briefs of twenty other states (“Other States”) and two State legislators (“Legislators”).

² The lack of a post-election cure period for missing signature ballots is hereinafter referred to as the “Inadequate Cure Period.”

based on a perceived mismatched signature. They sued the Secretary and the recorders for each of Arizona's fifteen counties, who administer Arizona's elections. The State and RNC were granted leave to intervene.

Appellees' request for relief was supported by the Secretary and several county recorders. The district court found in Appellees' favor and permanently enjoined the Inadequate Cure Period. None of the original defendants appealed. Only the intervenors did. Now, they ask this Court to issue a stay of the district court's well-considered and factually supported injunction. Their motions should be denied.

First, and perhaps most critically, the State and RNC have not demonstrated they will suffer irreparable harm absent a stay. Indeed, the RNC has not even attempted to meet this burden.

Second, the injunction was correctly issued on a full record, after a trial on the merits. The Inadequate Cure Period unconstitutionally burdens the right to vote and denies voters procedural due process.

Finally, equitable considerations cut against a stay. If it is entered, some lawful voters who timely cast a ballot will not be able to save it from rejection. The district court correctly found that no state interest justified this burden on voting rights. Indeed, the Secretary and other elections

officials support the injunction because the post-election cure period is easily administered and does not risk voter confusion.

Factual and Procedural Background

Cure Periods for Ballots

Arizona allows no-excuse mail voting. A.R.S. § 16-541. Election officials verify that a given voter cast a ballot by comparing the signature on the ballot envelope with the registration record. A.R.S. § 16-548.

In 2019, the Arizona legislature amended state law to provide for a post-election cure period for ballots with signatures inconsistent with the registration record. [Addendum to State's Motion ("ADD-") 2–3] In relevant part, these voters have until “the fifth business day after” an election “that includes a federal office” to cure. A.R.S. § 16-550(A). The same cure period is available for voters who arrive at the polls without proper identification and cast conditional provisional ballots. [ADD-3]

State law, however, does not expressly provide that a voter can correct a missing signature within the same period applicable to other voter identity verification issues. It is silent on cure periods for such “missing signature” ballots. So, the Secretary sought to impose a uniform cure period. As Arizona's chief election officer, she is “required by law to

prescribe in the Election Procedures Manual (‘EPM’) ‘rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting.’” [*Id.* (citation omitted)]

To this end, the Secretary’s draft EPM in October 2019 “instructed election officials to permit voters to cure a missing signature within the same post-election time frame applicable to perceived mismatched signatures.” [*Id.*] But “[t]he Attorney General,” who must approve the EPM, A.R.S. § 16-452(B), “objected to the Secretary’s draft because, in his view, Arizona law implicitly prohibits a post-election cure period for missing signatures.” [*Id.*] The Secretary disagreed, but “acquiesced to removing the language in the interest of timely issuing an updated version of the EPM.” [*Id.*] So, the final EPM does not authorize any post-election cure period for mail ballots with missing signatures. It provides only that voters may cure these ballots until 7:00 pm on election day.

This Lawsuit

The Arizona Democratic Party (“ADP”), Democratic National Committee (“DNC”), and DSCC sued the Secretary and all county recorders on June 10, 2020. They challenged the Inadequate Cure Period as: (1) unjustifiably burdening the right to vote; and (2) violating

procedural due process. [ADD-196–198] Appellees moved to enjoin defendants to “allow voters to cure missing signatures in the same post-election period applicable to perceived mismatched signatures.” [ADD-4]

The court consolidated the injunction hearing with a merits hearing. [Id.] It also permitted the State and the RNC to intervene. [Id.] Notably, the Secretary did not oppose Appellees’ requested injunction. [Dist. Ct. Dkt. (“Doc.”) 86] Additionally, three other defendant county recorders supported Appellees’ relief; the others did not take a position. [Doc. 90]

On August 18, following the parties’ briefing, the district court held a merits hearing, during which it admitted evidence and heard argument. [ADD-4] On September 10, it permanently enjoined the Inadequate Cure Period. [ADD-18–19, 24] The State, joined by the other intervenors, moved the district court to stay the permanent injunction. [Doc. 119] None of the named defendants joined in the request. The district court rejected the State’s request for a stay. [ADD-329]

Corporate Disclosure Statement

No publicly held corporation owns ten percent or more of any stake or stock in Appellees.

Argument

“A stay is not a matter of right” and is not warranted here. *Al Otro Lado v. Wolf*, 952 F.3d 999, 1006 (9th Cir. 2020) (quoting *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926)). This Court considers four factors: “(1) whether the stay applicant has made a strong showing of likely success on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether a stay will substantially injure the other parties; and (4) the public interest.” *Id.* at 1006–07 (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)). No factor favors a stay.

I. The State Has Failed to Establish Irreparable Injury.

The State and RNC do not meet their “burden of showing that irreparable injury is likely to occur during the period before the appeal is decided.” *Doe #1 v. Trump*, 957 F.3d 1050, 1059 (9th Cir. 2020). For this threshold reason alone, the Court should deny the State’s request for a stay. *Leiva-Perez v. Holder*, 640 F.3d 962, 965 (9th Cir. 2011). The RNC concedes the point; it does not even argue it would face irreparable harm.³

³ *Cf. Rizk v. Holder*, 629 F.3d 1083, 1091 (9th Cir. 2011) (petitioner waived argument by failing to raise in opening brief).

A. The State’s “*Per Se*” Irreparable Harm Theory Is Factually Irrelevant and Legally Incorrect.

The State focuses its “irreparable harm” argument on the theory that enjoining any state law causes irreparable harm *per se*. The State claims (at 19), “a state suffers irreparable injury whenever an enactment of its people or their representatives is enjoined.” (Citation omitted). This theory is not only irrelevant, but also incorrect.

It is irrelevant because the district court has not enjoined an “enactment” of the people of Arizona or their representatives. The Arizona election code does “not expressly address whether ballot envelopes with missing signatures may be cured.” [ADD-2–3] Only the EPM—dictated by the Attorney General over the Secretary’s wishes—does. The injunction narrowly supersedes the EPM in ordering the Secretary and others to carry out the constitutionally adequate procedures that the Secretary originally proposed. [ADD-24]

Even if an enacted statute were at issue, the State’s theory of *per se* irreparable harm would fail. This Court has rejected the claim that by “merely by enjoining a state legislative act,” a court “create[s] a *per se* harm trumping all other harms.” *Indep. Living Ctr. of S. Cal., Inc. v. Maxwell-Jolly*, 572 F.3d 644, 658 (9th Cir. 2009), *vacated and remanded*

on other grounds sub nom. *Douglas v. Indep. Living Ctr. of S. Cal., Inc.*, 565 U.S. 606 (2012). Reasoning that a “*per se*” irreparable harm theory would “eviscerate[]” the injunctive relief standard, multiple panels have clarified that the language the State quotes from *Coalition for Economic Equity v. Wilson*, 122 F.3d 718 (9th Cir. 1997), is “dicta.” *Maxwell-Jolly*, 572 F.3d at 658; see also *Latta v. Otter*, 771 F.3d 496, 500 (9th Cir. 2014).

The State (at 2) also quotes a single-justice order in *Maryland v. King*, 133 S. Ct. 1 (2012), in support of its *per se* irreparable harm theory, but regardless of how that order is interpreted, it is non-precedential and cannot override binding Circuit precedent. *Latta*, 771 F.3d at 500 n.1; see also *Sierra Club v. Trump*, 963 F.3d 874, 897 n.17 (9th Cir. 2020) (following *Latta*, 771 F.3d at 500, panel was “unconvinced by Defendants’ argument, citing *Maryland v. King* . . . that ‘there is “irreparable harm” whenever a government cannot enforce its own laws”).

At bottom, any “abstract” harm a state suffers if a state law is enjoined does not itself constitute irreparable harm. See *Maxwell-Jolly*, 572 F.3d at 658. It necessarily follows that the “abstract” harm, if any, from enjoining state law does not alone justify a stay.

B. Any Administrative Burdens of the Injunction Would be Minimal and Fall Far Short of Irreparable Harm.

Next, the State (at 20) asserts that the district court “wrongly discounted” the “applicability” of the State’s interests and “hence harm to the State.” In this regard, the State (at 12, 20) highlights its belief that the district court “wrongly discounted evidence that its injunction could prevent counties from meeting applicable election deadlines.” But there is no such record evidence, discounted or otherwise. The State sought to introduce such evidence through the report of Dr. Atkison, but the district court found that the relevant portions of Dr. Atkison’s report were inadmissible and precluded them. [ADD-7] And the State has not challenged this admissibility determination in its Motion.⁴

⁴ The declaration from Christopher Roads, the Chief Deputy Recorder for Pima County, contains no statement that a post-election cure period would prevent counties from meeting their deadlines. The declaration states only that curing a ballot with no signatures would require the staff to take certain steps that, comparatively, would “result in substantially more effort” than curing signature mismatches. [ADD-179 ¶ 19] Without implication, it also says that Pima County has completed the validation ballots for provisional ballots on the last day of the deadline. [*Id.* ¶ 18] Meanwhile, the Coconino County Recorder submitted testimony that a post-election cure period would *not* prevent counties from timely certifying election results. [Supplemental Addendum (“SA-”) 25]

The State also vaguely cross-references four other pages of its Motion to buttress its assertion that the district “wrongly discounted” certain other “harm to the State.” But it does not specify what facts it is referring to. In any event, any “harm to the State” would be conjectural at best. This Court has repeatedly refused to credit conjectural harms, especially those outside the record, in considering stay motions. *See, e.g., Doe #1*, 957 F.3d at 1059–60.

Finally, any minimal administrative burdens of the injunction would not be “irreparable.” “Mere injuries, however substantial, in terms of money, time and energy necessarily expended” are not enough to constitute an “irreparable” injury. *Al Otro Lado*, 952 F.3d at 1008 (quoting *Sampson v. Murray*, 415 U.S. 61, 90 (1974)).

C. The Injunction Would Benefit the State’s Interests.

Far from irreparably injuring the State, the injunction would benefit the State’s proffered interest of “promoting voter participation/turnout.” [ADD-256] But if the injunction is stayed, it is undisputed that some lawful voters in the upcoming election “will have their ballots discarded.” [ADD-329] This underscores the State’s failure

to meet its “burden of showing that irreparable injury is likely to occur during the period before the appeal is decided.” *Doe #1*, 957 F.3d at 1059.

II. The State Is Unlikely to Succeed in Its Appeal.

Even if the stay motion did not fail for this threshold deficiency, the Court should deny it because the State has not made a “strong showing” that its appeal “is likely to succeed on the merits.” *Al Otro Lado*, 952 F.3d at 1006 (quoting *Nken*, 556 U.S. at 434). The district court did not abuse its discretion in entering a permanent injunction. It neither made legal error nor “clear[ly] err[ed]” in its factual findings. *Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 867 (9th Cir. 2014).

A. Appellees Have Standing.

First, the district court rightly concluded that at least one plaintiff (the ADP) has standing to challenge the Inadequate Cure Period.⁵ Only the State disputes this determination.

1. ADP Has Associational Standing.

The district court concluded ADP has associational standing because (1) its “members would otherwise have standing to sue in their

⁵ Because the district court concluded that ADP has standing, it did not need to consider the standing of the DNC and DSCC. These Appellees also have standing. [See SA-27–44]

own right,” (2) “the interests at stake are germane to” ADP’s purpose; and (3) “neither the claim asserted nor the relief requested requires the participation of individual members.” *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 181 (2000). This was not error.

The State challenges ADP’s associational standing in only one respect, arguing (at 7) that ADP cannot establish associational standing because it “did not identify any members.” This misreads controlling precedent. ADP did not need to name individual members because it is “relatively clear, rather than merely speculative, that one or more members have been or will be adversely affected by” the Inadequate Cure Period, and the State “need not know the identity of a particular member to understand and respond to [ADP’s] claim of injury.” *Nat’l Council of La Raza v. Cegavske*, 800 F.3d 1032, 1041 (9th Cir. 2015).

Citing no authority, the State argues (at 7) that *Cegavske* is inapplicable because it was necessary to identify specific members to “understand and respond to” ADP’s claim of injury. *Id.* Not so. As

discussed below (at n.8), no factual development is needed to resolve the question of the Inadequate Cure Period's facial constitutionality.⁶

In the end, *exactly* whom among Appellees' membership will be disenfranchised due to the Inadequate Cure Period cannot be known until the election, but some always are. [ADD-9] Courts routinely find associational standing in similar cases. *See, e.g., Fla. Democratic Party v. Detzner*, No. 16cv607, 2016 WL 6090943, at *4 (N.D. Fla. Oct. 16, 2016).

2. ADP Has Organizational Standing.

Second, ADP has organizational standing because it demonstrated “(1) frustration of its organizational mission; and (2) diversion of its resources to combat the particular [injurious behavior] in question.” *Rodriguez v. City of San Jose*, 930 F.3d 1123, 1134 (9th Cir. 2019) (alteration in original) (citation omitted).

As to the first prong, “[r]ejection of ballots reflecting votes for Democratic Party candidates frustrates the ADP’s organizational

⁶ Without explanation, the State also implies alternatively (at 7) that *Cegavske* was wrongly decided. But *Cegavske* is consistent with Supreme Court precedent. *See Cegavske*, 800 F.3d at 1040 (analyzing Supreme Court precedent). In all events, the State’s unexplained claim that this Court’s precedent is somehow incorrect is insufficient to form the basis of the “strong showing” the State must make that it is likely to succeed on appeal. *Al Otro Lado*, 952 F.3d at 1006 (quoting *Nken*, 556 U.S. at 434).

mission” of electing Democrats in Arizona. [ADD-9] Without authority, the State asserts (at 8) that ADP cannot establish diversion-of-resources organizational standing because it cannot prove that more Democratic voters are harmed by the law. But to Appellees’ knowledge, no court has ever required such a showing to establish standing based on diversion of resources. A contrary rule would make no sense: “[I]t cannot be known in advance” of an elections who “voters . . . will vote for.”⁷ [ADD-9–10 n.12]

As to the second prong, ADP established various ways in which it is compelled to redirect its resources to combat the Inadequate Cure Period. [ADD 10] The State claims (at 8) that ADP’s evidence of resource diversion is “far too lacking in detail.” (Emphasis omitted). But the State (at 8–9) points only to an allegation in the complaint, ignoring the *evidence* the district court evaluated after a merits hearing. ADP’s evidence established at least two ways in which its resources are diverted because of the Inadequate Cure Period (ballot cure and education) and

⁷ ADP also alleged, and had, direct standing based on harm to its election prospects. It is binding Ninth Circuit law that political parties have standing to challenge laws that harm their political prospects. *See Owen v. Mulligan*, 640 F.2d 1130, 1133 (9th Cir. 1981). The district court did not address this alternative basis of direct standing. And the State’s third argument (at 9) is not a basis for overturning its decision.

the priorities these resources are diverted from (including, voter persuasion). [ADD-10] The State elides the actual basis of the opinion.

B. The Inadequate Cure Period Is Unconstitutional.

The district court correctly concluded the Inadequate Cure Period unconstitutional. It (1) places an undue burden on voting rights and (2) violates procedural due process guarantees. That Appellees' claims are facial does not alter these conclusions, as the State suggests (at 13).⁸

1. The Inadequate Cure Period Unduly Burdens the Right to Vote.

The district court correctly concluded that the Inadequate Cure Period unconstitutionally burdens the fundamental right to vote. [ADD-18–19] It applied the relevant “flexible standard” laid out by the Supreme

⁸ The Supreme Court has articulated different standards for facial challenges, including the *Salerno* “no set of circumstances” standard suggested by the State. *Libertarian Party of N.H. v. Gardner*, 843 F.3d 20, 24 (1st Cir. 2016) (citation omitted); *see id.* (explaining the Supreme Court’s lower, “plainly legitimate sweep” standard could also apply) (citation omitted). Even if the *Salerno* standard applies, Appellees’ claims satisfy it. Given the mechanical application of cure period deadlines to any affected Arizona voter, the “components of the burden” that the Inadequate Cure Period “imposes are defined by its facial terms, not by any anticipated exercise of discretion in its application.” *Id.* at 24–25. A court need not “speculate about ‘hypothetical’ or ‘imaginary’ cases,” and “can readily ascertain” from state law “as written” that the Inadequate Cure Period is unconstitutional. *Martin v. Kemp*, 341 F.Supp.3d 1326, 1337 (N.D. Ga. 2018) (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008)).

Court to resolve, among other things, Equal Protection challenges to state election laws (“*Anderson-Burdick*”). *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992).

The district court first evaluated the burden on the right to vote. *Anderson*, 460 U.S. at 789. It concluded the burden was “minimal,”⁹ but then properly further found that none of the State’s purported interests justify even a minimal burden. *Id.*

In doing so, it examined each of four “precise interests put forward by the State,” *id.*—(1) fraud prevention; (2) reducing administrative burdens on poll workers; (3) the orderly administration of elections; and (4) promoting voter participation and turnout.¹⁰ It considered whether the Inadequate Cure Period reasonably furthered these interests and found that it did not. This was not because the district court applied a

⁹ As Appellees will address in the merits appeal, the district court was incorrect to hold that the burden imposed by the Inadequate Cure Period is minimal. As explained below, the “character and magnitude of the asserted injury to the rights” of Appellees caused by the Inadequate Cure Period is at least significant. *Anderson*, 460 U.S. at 789. But this is irrelevant for present purposes; whatever the degree of burden imposed on the right to vote, the State cannot justify that burden.

¹⁰ The State did not present an “interest in incremental election-system experimentation” as a justification for the Inadequate Cure Period, as the Legislators suggest (at 5).

heightened standard¹¹ or second-guessed every rationale, as the RNC implies (at 6). Rather, the State’s lack of record evidence for its made-for-litigation arguments compelled the district court’s holding. [See, e.g., ADD-18 (noting lack of evidence for claim that “a post-election cure period will reduce cure rates”)]¹²

The RNC (at 3–4), supported by the Legislators (at 3), challenges the district court’s conclusion that the Inadequate Cure Period does not further the State’s interest in voter fraud. Again, though, the State lost on this point because of a fatal lack of evidence—not because the district court applied some implicitly incorrect standard or required that the Inadequate Cure Period be the best way to prevent fraud. The State entirely failed to produce any admissible and probative evidence during trial that prohibiting post-election cure prevents fraud in any way. Put differently, the State did not put forward any evidence that the

¹¹ The district court did not require that the Inadequate Cure Period survive strict scrutiny as the State implies (at 9) without record citation. Similarly, the court did not require narrow tailoring, as the RNC suggests (at 2–3), also without citation to the record.

¹² As noted above, in rejecting the post-election cure period proffered by the Secretary in the EPM, the Attorney General did not object on the bases advanced in this litigation but, rather, on his expressed view that Arizona law implicitly did not authorize such a cure period. [ADD-3]

Inadequate Cure Period “is rationally related” to fraud prevention. *Ariz. Libertarian Party v. Reagan*, 798 F.3d 723, 733 (9th Cir. 2015). As the district court found, “[b]ecause there is *no* evidence that the challenged deadline reasonably prevents fraud . . . fraud prevention does not justify the minimal burdens imposed.”¹³ [ADD-13 (emphasis added)] Indeed, the State outright admitted during the hearing that “fraud generally is not suspected based on the number of ballots returned without signatures.” The concession was understandable; it makes no sense that preventing voters from submitting proof they voted would prevent voter fraud.

The State (at 12)—joined by the RNC (at 5–6)—challenges the district court’s factual findings on only the second justification, administrative burden. But the Appellants, and the Legislators (at 4–5), once again mischaracterize the record. The State failed to establish at the trial that there is any more than a slight burden on election officials. The State’s only admissible record evidence on administrative burden is that

¹³ As the Legislators note (at 3), the district court observed that prohibiting a post-election cure was “not necessary to advance the State’s fraud prevention interest.” [ADD-13–14] True. But the court stated that the State did *not* have to select the best method for preventing fraud. The problem was that the State did not present any evidence that the Inadequate Cure Period prevented fraud at all. [ADD-14]

curing missing signatures would take comparatively more effort than curing mismatches. *See supra* note 2. That is it. There is no record evidence that an additional cure period interferes with election certification in any way, as the State claims (at 12–13). *See id.*

On this, the district court easily concluded there was no “meaningful administrative burden[.]” [ADD-16] This is not engaging in a “cost-benefit analysis,” as the Legislators suggest (at 5). This is what *Anderson-Burdick* requires. Here, the district court considered the evidentiary record the State failed to build and found the Inadequate Cure Period was not even “rationally related” to reducing administrative burdens.¹⁴ *Ariz. Libertarian Party*, 798 F.3d at 733.¹⁵

¹⁴ The record, in fact, amply established that the Inadequate Cure Period does not create administrative burdens. [See ADD-15 (crediting the “Secretary’s judgment” that “Arizona could implement a post-election cure period without imposing significant administrative burdens”); *id.* (noting recorder’s declaration that “a post-election cure period would not impose significant administrative burdens or impact Coconino County’s ability [to] meet Arizona’s certification deadline”); *see also* SA-10]

¹⁵ The Legislators raise an argument, not directly raised by any party (at 5), that the district court’s holding related to the State’s interest in the orderly administration of elections is incorrect. *Amici* cannot raise arguments. *United States v. City of Los Angeles*, 288 F.3d 391, 400 (9th Cir. 2002). Regardless, the district court correctly determined that the Inadequate Cure Period has no nexus to ensuring efficient election administration given the record evidence. [ADD-18 (“On this record, treating unsigned envelopes worse than those with perceived

In the end, the State and RNC cannot establish fault with the district court's actual decision under *Anderson-Burdick*, so they instead resort to mischaracterizing it. The district court, for instance, did not conclude that officials cannot set reasonable deadlines for elections, including for curing ballots, as the State suggests (at 11–12). It also did not conclude, as the State claims (at 15), that a post-election cure period for signature mismatches must be identical to missing signatures. Instead, the Court examined the claims presented in *this* case and engaged in the case-specific, factual analysis that is necessary to resolve claims under *Anderson-Burdick*. See *Soltysik v. Padilla*, 910 F.3d 438, 445 (9th Cir. 2018). In doing so, the court correctly found that under the facts of this case—and after a trial on the merits—relief is warranted.

Further, the arguments by the State (at 10) and RNC (at 4) that other states' ways of “address[ing] non-signatures” may be constitutional are beside the point. Individual assessment of each state's laws and the burdens they impose is needed. See, e.g., *Ohio State Conf. of N.A.A.C.P. v. Husted*, 768 F.3d 524, 547 n.7 (6th Cir. 2014), *vacated on other grounds*,

mismatched signatures or in-person conditional provisional ballots undermines, rather than serves, the State's interest in the orderly administration of elections.”]

No. 14-3877, 2014 WL 10384647 (6th Cir. Oct. 1, 2014) (“[W]e do not find that other states’ electoral laws and practices are relevant to our assessment of the constitutionality” of Ohio law); *see also Anderson*, 460 U.S. at 789 (challenges “cannot be resolved by any ‘litmus-paper test’ that will separate valid from invalid restrictions”) (citation omitted).

To be sure, states have substantial discretion in regulating their elections, as the Other States point out (at 2–4). *Anderson*, 460 U.S. at 788. But of course that does not mean all election deadlines pass constitutional muster. *See id.* at 806 (deadline for filing nomination petitions imposed unconstitutional burden); *Nader v. Brewer*, 531 F.3d 1028, 1039 (9th Cir. 2008) (deadline burdensome and unconstitutional).¹⁶

2. The Inadequate Cure Period Violates Procedural Due Process.

The district court also properly determined that the Inadequate Cure Period is unconstitutional under the framework for analyzing procedural due process claims. The Inadequate Cure Period results in

¹⁶ Indeed, the State’s extension of the cure period to some voters and not others makes it an “outlier.” [APP-17] “Arizona currently is the *only* state that sets a different deadline for curing a missing signature than a perceived mismatched signature.” [APP-17–18 (emphasis added)] If other states’ laws are relevant at all, Arizona’s “outlier” status supports that there is no state interest advanced by this disparate treatment.

“(1) a deprivation of a constitutionally protected liberty or . . . interest, and (2) a denial of adequate procedural protections.” *Franceschi v. Yee*, 887 F.3d 927, 935, 936–37 (9th Cir. 2018) (citation omitted) (articulating procedural due process test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)).

As a threshold matter, the district court correctly analyzed Appellees’ procedural due process claim under the traditional *Mathews* test. [ADD-21 (citing cases)] The State (at 16–17) and RNC (at 7–10) argue, wrongly, that Ninth Circuit precedent requires all constitutional challenges to election regulations be analyzed under *Anderson-Burdick*. The State cites two cases in support of that claim but, as the district court concluded, neither involved procedural due process claims and are “best understood as placing all *substantive* due process and equal protection challenges to election regulations under” *Anderson-Burdick*. [ADD-19–20 (citing and distinguishing *Soltysik v. Padilla*, 910 F.3d 438, 449 n.7 (9th Cir. 2018), and *Dudum v. Arntz*, 640 F.3d 1098, 1106 n.15 (9th Cir. 2011), on that basis)]¹⁷ Absent Ninth Circuit caselaw requiring procedural due

¹⁷ The RNC adds its view (at 9) that “this Court has already applied *Anderson-Burdick* to procedural due process challenges to voting laws” in *Lemons v. Bradbury*, 538 F.3d 1098, 1103 (9th Cir. 2008) (emphasis

process claims to be analyzed under *Anderson-Burdick*, the district court was bound to apply the *Mathews* test and properly did so.¹⁸

The State contends, incorrectly, that there cannot be a liberty interest so long as state law prohibits a post-election cure for unsigned mail ballots. This conflates the liberty interest at issue—voting—with the procedures Appellees seek to protect such interest—a post-election day cure period for unsigned mail ballots. Appellees’ constituents have a constitutional right to vote that is “entitled to substantial weight.” *Martin*, 341 F.Supp.3d at 1338. Appellees “have a constitutionally protected liberty interest in having their ballots counted.” [ADD-20–21]

The district court, applying *Mathews*, accurately concluded that the lack of a post-Election Day cure period for unsigned mail ballots was constitutionally inadequate. The State (at 17) challenges the district

omitted). Not so. *Lemons* cited one case in support of its procedural due process analysis, a Seventh Circuit opinion analyzing an election law procedural due process claim under *Mathews*, 538 F.3d at 1105 (citing *Protect Marriage Ill. v. Orr*, 463 F.3d 604 (7th Cir. 2006)). While *Lemons* did not expressly articulate the standard it applied, it did, consistent with *Orr*, assess the *Mathews* factors. *Id.* (balancing value of additional procedural safeguards against administrative burden to the state).

¹⁸ Both the State (at 17) and RNC (at 7) also erroneously argue, without support, that Appellees’ due process claim is substantive. But Appellees only sought additional process to afford an otherwise eligible Arizona voter the opportunity to cure, not a new substantive right.

court's analysis in three conclusory sentences, reasserting that, among other things, "there is little value to additional procedures." But the district court found, after a trial on the merits, that "[a] post-election cure period would increase the likelihood" that voters can fix unsigned mail ballots and that the "State's interests in maintaining its Election-Day deadline for curing unsigned [ballots] are weak," among other factual findings. [ADD-22] The State does not, and cannot, explain why these factual findings were clearly erroneous. Neither the State nor RNC explain why, or how, the court's rigorous procedural due process analysis was legally flawed or incomplete. Thus, they make no showing, much less the "strong showing" required to obtain a stay, that they are likely to succeed on the merits of this claim. *Al Otro Lado*, 952 F.3d at 1006.

C. The District Court Did Not Abuse Its Discretion in Issuing an Injunction.

The State argues (at 17–18) that the district court "committed legal error and/or abused its discretion" in "balancing the harms" as part of the inquiry into whether to grant an injunction. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).¹⁹ Not so.

¹⁹ The State does not challenge the district court's rulings that Appellees suffered irreparable harm and that the injunction was "in the

First, the district court did not abuse its discretion by, as the State claims (at 18), failing to account for other “minimal” burdens in balancing the equities. The court considered “the harms . . . a preliminary injunction might cause to defendants” and “weigh[ed] these against plaintiff’s threatened injury.” *L.A. Mem’l Coliseum Comm’n v. Nat’l Football League*, 634 F.2d 1197, 1203 (9th Cir. 1980). It is beyond dispute that absent an injunction, some votes will not be counted. [ADD-23] The court’s conclusion that this was significant injury was not “illogical, implausible, or without support” in the record. *Doe v. Kelly*, 878 F.3d 710, 719 (9th Cir. 2017) (citation omitted).

Second, the district court did not abuse its discretion, as the State claims (at 18), in ruling that the delay did not “undermine the harms alleged.” [ADD-23] It was not until December 2019 that it became clear the requested cure period would not be in the EPM. [ADD-3] Appellees filed suit less than six months later and half a year before Election Day.²⁰

public interest.” *Winter*, 555 U.S. at 20. The RNC challenges only the success on the merits factor.

²⁰ The district court also did not err, as the State argues in passing (at 18), in failing “entirely to consider the *per se* irreparable harm that states suffer when their laws are enjoined.” As explained above, the State’s *per se* irreparable harm theory is factually and legally incorrect. *See* I.A.

III. The Balance of Hardships and Public Interest Tip in Appellees' Favor.

Because the State has not made a “strong showing” that it will likely succeed on the merits or be irreparably injured absent a stay, this Court “need not dwell on the final two factors—‘harm to the opposing party’ and ‘the public interest.’” *Al Otro Lado*, 952 F.3d at 1014–15 (quoting *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 778 (9th Cir. 2018)). Regardless, both weigh against a stay.

A. A Stay Would Substantially Injure Appellees.

A stay will substantially injure Appellees. If the injunction is stayed, in the upcoming election “the ballots of some otherwise eligible voters,” including Appellees’ members, “inevitably will be rejected due to missing signatures.” [ADD-23; *see also* ADD-329] This will substantially and irreparably harm Appellees and their members. “Courts routinely deem restrictions on fundamental voting rights” as significant and “irreparable injury.” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). As a result, the district court correctly determined that “[t]he loss of one’s vote constitutes an irreparable harm.” [ADD-23] The State does not dispute this holding. [*See id.*] Instead, it makes two separate arguments, neither of which withstand scrutiny.

The State offers no authority to support its suggestion (at 20) that Appellees' timing in filing this suit is relevant to the narrow question of whether issuance of the stay will substantially injure the other parties, and Appellees have found none. Regardless, the State is wrong as a factual matter. *See* II.C. And, Appellees need not have sued when the State first injured their rights, or else forever suffer that injury. *See, e.g., Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 664-66 (1966) (holding poll tax added in 1902 unconstitutional). In all events, any delay was not “so substantial as to undermine the harms alleged.” [ADD-23]

Also misplaced is the State's claim (at 20), again without authority, that Appellees' harm is somehow discounted because the district court determined the burden imposed is “minimal.” Even to the extent that the burden imposed on voters by the Inadequate Cure Period is “minimal” under *Anderson-Burdick* (it is not), it does not mean that the *injury* caused by the issuance of a stay is minimal. These are distinct inquiries.

B. The Public Interest Weighs Against a Stay.

The public interest also weighs against a stay. With the injunction in place, voters will be allowed to verify their identity and thus have their lawful votes counted. This clearly serves the public interest since “[t]he

public has a ‘strong interest in exercising the fundamental right to vote’” and in “‘permitting as many qualified voters to vote as possible.’” *League of Women Voters*, 769 F.3d at 247, 248 (citations omitted). Thus, staying the order would undermine the public interest. [ADD-329]

Neither the State or RNC dispute this. Instead, they argue that the public interest favors a stay pending appeal, and that the district court was wrong to issue its injunction, due to the *Purcell* doctrine. *See Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam). They argue, in effect, that *Purcell* mandates a *per se* rule that unconstitutional election laws cannot be enjoined within months of an election, no matter the circumstances.

But *Purcell* does not mandate any such a blanket rule. Courts must consider the established stay standards in each individual case. *Purcell*, 549 U.S. at 4. “*Purcell* is not a magic wand that defendants can wave to make any unconstitutional election restriction disappear so long as an impending election exists.” *People First of Ala. v. Sec’y of State for Ala.*, 815 F. App’x 505, 514 (11th Cir. 2020).²¹

²¹ Indeed, this cycle, the Supreme Court has declined to stay an injunction related to voting prior to the election. *See Republican Nat’l Comm. v. Common Cause R.I.*, No. 20A28, 2020 WL 4680151, at *1 (U.S. Aug. 13, 2020); *see also Ohio State Conf. of N.A.A.C.P. v. Husted*, 769 F.3d 385 (6th Cir. 2014) (denying stay of order enjoining statutory amendment

In cases in which an election is pending, courts must “weigh, in addition to the harms attendant upon issuance or nonissuance of an injunction, considerations specific to election cases.” *Purcell*, 549 U.S. at 4. Among these considerations is the risk that “[c]ourt orders affecting elections, especially conflicting orders, can . . . result in voter confusion.” *Id.* at 4–5. Extrapolating from this, the State (at 19) and RNC (at 12) argue that an injunction was not appropriate because the injunction would cause “conflicting orders” from election officials (as opposed to courts) related to cure. This claim is unsupported.

As a result of the injunction, voters with unsigned ballots in the upcoming general election will be told they can cure them post-election. This is because election officials must affirmatively contact such voters to inform them that their ballots have been rejected and explain how to remedy the issue. [ADD-4] The State does not attempt to explain (at 19) how “contradictory information” would be provided in this election.

To the contrary, as the district court found, the injunction “is not likely to confuse voters.” [ADD-23–24] Most voters will not even know

and directives changing Ohio’s early in-person rules roughly seven weeks before election), *aff’d*, 768 F.3d 524.

about this change, so it will not affect voter expectations or behavior. The injunction does not change the process for submitting a mail ballot and election officials would only implement the cure procedures on the back end after ballots with missing signatures are cast. Voters face no ambiguities in the rules—they will just be allowed to fix any failure to sign their ballot envelopes longer.²² If anything, the injunction would mitigate voter confusion because “the injunction would replace arbitrary differential treatment” of mail ballots “with uniformity.” [ADD-24]

Also among the concerns animating *Purcell*, was restraint where there was “inadequate time to resolve the factual disputes.” 549 U.S. at 5–6. But such a concern is not at issue here, where the district court entered a permanent injunction after a trial. This case turns largely on the application of established law to how Arizona treats “missing signature” ballots.

In the end, at this stage, granting the State a stay of the district court’s permanent injunction, which is already in effect, would result in “conflicting [court] orders” that could result in the “voter confusion”

²² Further, officials will not have to “devise new rules” to comply with the injunction. [ADD-23] They will simply have to continue curing ballots with missing signatures “a little longer.” [*Id.*]

Purcell cautioned against. *Id.* at 4–5. *Purcell* is not a get-out-of-injunction-free card that states can play to use unconstitutional procedures in one last election.

Conclusion

For these reasons, Appellees respectfully request that this Court deny the Motions.

Dated: September 25, 2020

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the attached document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on September 25, 2020. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system

s/ Clair H. Wendt

APPELLEES' SUPPLEMENTAL ADDENDUM

TABLE OF CONTENTS

Document	Page
July 9, 2020 Def. Ariz. Sec'y of State's Response to Plaintiffs' First Set of Interrogatories	SA-1–16
Aug. 10, 2020 Declaration of Patty Hansen (Plfs.' Trial Ex. 29)	SA-17–26
Aug. 12, 2020 Declaration of Herschel Fink (Plfs.' Trial Ex. 30)	SA-27–33
Aug. 12, 2020 Declaration of Sara Schaumburg (Plfs.' Trial Ex. 32)	SA-34–39
Aug. 13, 2020 Declaration of Reyna Walters-Morgan (Plfs.' Trial Ex. 31)	SA-40–44

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

The Arizona Democratic Party, et al.,)	No. CV-20-01143-PHX-DLR
)	
Plaintiffs,)	
)	DEFENDANT ARIZONA
v.)	SECRETARY OF STATE'S
)	RESPONSE TO PLAINTIFFS' FIRST
Katie Hobbs, in her official capacity as)	SET OF INTERROGATORIES
Arizona Secretary of State, et al.,)	
)	
Defendants.)	
)	
State of Arizona, et al.)	
)	
Intervenor Defendants.)	
)	

Defendant Katie Hobbs, in her official capacity as Arizona Secretary of State ("Secretary") responds to Plaintiff's First Set of Interrogatories as follows:

GENERAL OBJECTIONS

These General Objections apply to the Plaintiffs' Interrogatories generally and to each Definition, Instruction, and individual Interrogatory and, unless otherwise stated, shall have the same force and effect as if set forth in full in response to each Definition, Instruction, and individual Interrogatory. The fact that an objection is not listed herein

1 does not constitute a waiver of that objection or otherwise preclude the Secretary from
2 raising that objection at a later time.

3 The Secretary objects to the Definitions and Instructions, as well as each individual
4 Interrogatory, to the extent that they are vague, ambiguous, overly broad, lacking in
5 reasonable particularity, unreasonable or seek the discovery of information that is not
6 relevant to the claims or defenses of any party to the action, as well as to the extent that
7 the Interrogatories impose a burden and/or expense on the Secretary that is not
8 proportionate to the needs of the case or that outweighs the benefit of the proposed
9 discovery. Subject to and without waiving this objection, in responding to Plaintiffs'
10 Interrogatories, the Secretary will comply, and construe the Definitions and Instructions
11 consistently with the Federal Rules of Civil Procedure.

12 The Secretary objects to the Interrogatories to the extent that they seek information
13 that is: (a) protected by the attorney-client privilege, the work-product doctrine, or any
14 other applicable privilege or discovery protection; (b) already in Plaintiffs' possession,
15 custody, or control; and/or (c) publicly available or otherwise equally available to
16 Plaintiffs.

17 **RESPONSES TO INTERROGATORIES**

18 **1. Explain why you agreed to include a provision in the draft Election**
19 **Procedures Manual, dated October 2019, that: "Voters must be permitted to correct**
20 **or confirm a[] . . . missing signature until 5:00 p.m. on the fifth business day after a**
21 **primary, general, or special election that includes a federal office or the third**
22 **business day after any other election" ("Additional Cure Period").**

23 **RESPONSE:** The Secretary objects to Interrogatory No. 1 because it is
24 vague and overbroad by making an unqualified request for all reasons "why" the
25 Secretary agreed to include the quoted provision. Subject to that objection, the Secretary
26 interprets Interrogatory No. 1 as requesting any reason that may be relevant to any party's
27 claims or defenses in the above-entitled action.

1 The Secretary agreed to include the Additional Cure Period¹ in the draft Election
2 Procedures Manual released to the Attorney General and Governor on October 1, 2019
3 for the following reasons:

4 In November 2018, the Navajo Nation, Joyce Nez, Denise Johnson, Ashley Atene,
5 Sr., Irene Roy, Bonnie Tsosie, and Dale Smith (collectively, the “Navajo Nation
6 Plaintiffs”) filed a voting rights lawsuit in the United States District Court for the District
7 of Arizona against the Secretary’s predecessor, Michele Reagan, and elections officials
8 in Apache County, Navajo County, and Coconino County. *Navajo Nation, et al. v. Hobbs,*
9 *et al.*, Case 3:18-cv-08329-DWL. After taking office in 2019, the Secretary replaced
10 Secretary Reagan as a defendant in the case.

11 In April 2019, the Secretary resumed discussing potential settlement with the
12 Navajo Nation Plaintiffs, picking up from a discussion with the prior administration in
13 December 2018. Among other requests, the Navajo Nation Plaintiffs asked the Secretary
14 to include a rule in the Elections Procedures Manual that allows voters to “cure” missing
15 signatures on their early ballots until the fifth business day after an election that includes
16 a federal office or the third business day after any other election. The Attorney General’s
17 Office² represented the Secretary in Navajo Nation lawsuit, and they advised the
18 Secretary regarding her authority to enter the settlement agreement and include the
19 requested cure period in the Elections Procedures Manual.

20 With the assistance of counsel, the Secretary entered into a Settlement Agreement
21 with the Navajo Nation Plaintiffs effective August 6, 2019 (the “Navajo Nation
22 Settlement”). Pursuant to the Navajo Nation Settlement, the Secretary agreed to “cause
23 the draft Elections Procedures Manual to contain language essentially similar to the
24 following: If a voter fails to sign an early ballot affidavit, the County Recorder or other
25

26 ¹ The Secretary uses “Additional Cure Period” as that term is defined in Interrogatory
27 No. 1.

28 ² Specifically, former Assistant Attorney General Joseph LaRue and Assistant Attorney
General Kara Karlson.

1 officer in charge of elections shall make reasonable efforts to contact the voter, advise the
2 voter of the missing signature, and allow the voter to cure the deficiency. The County
3 Recorder or other officer in charge of elections shall allow signatures to be corrected not
4 later than the fifth business day after a primary, general, or special election that includes
5 a federal office or the third business day after any other election.” [See *Navajo Nation*,
6 Doc. 44-2]

7 United States District Judge Dominic W. Lanza approved the Navajo Nation
8 Settlement and dismissed the plaintiffs’ claims against the Secretary “pursuant to . . . the
9 terms of the Settlement Agreement and Joint Stipulation.” [*Navajo Nation*, Doc. 51]

10 The Secretary entered into the Navajo Nation Settlement in good faith and with
11 intent to fully perform her obligations. The Secretary agreed to include the Additional
12 Cure Period in the draft Elections Procedures Manual pursuant to her authority to
13 “prescribe rules to achieve and maintain the maximum degree of correctness, impartiality,
14 uniformity and efficiency on the procedures for early voting and voting, and of producing,
15 distributing, collecting, counting, tabulating and storing ballots.” A.R.S. § 16-452(A).
16 The Additional Cure Period is a procedure for collecting and counting early voting
17 ballots.

18 The Secretary believed that the Additional Cure Period for ballots with missing
19 signatures was authorized pursuant to A.R.S. § 16-550(A) and A.R.S. § 16-452. A.R.S.
20 § 16-550(A) allows voters whose ballot signatures are inconsistent with their voter
21 registration records to correct or confirm their inconsistent signatures until the fifth
22 business day after an election that includes a federal office or the third business day after
23 any other election. Because this statute is silent on the cure period for ballots with missing
24 signatures, the Secretary believed that it was within her authority under A.R.S. § 16-452
25 to fill this procedural gap and adopt the same cure period for ballots with missing
26 signatures. A.R.S. § 16-452 specifically directs the Secretary to “prescribe rules” in the
27 Elections Procedures Manual “to achieve and maintain the maximum degree of
28 correctness, impartiality, uniformity and efficiency on the procedures for early voting

1 and voting, and of producing, distributing, collecting, counting, tabulating and storing
2 ballots.” In the Secretary’s view, there is no meaningful difference between a ballot with
3 a missing signature and a ballot with a mismatched signature. The voter’s signature serves
4 as a means of identity verification, and in both instances, the problem is that the voter’s
5 identity cannot be verified—a problem that is resolved by notifying the voter and allowing
6 them to correct the problem and verify their identity.

7 Further, the Elections Procedures Manual provides for the same cure period for
8 conditional provisional ballots when a voter fails to present identification at a voting
9 location on Election Day. *See* 2019 Elections Procedures Manual Ch. 9 § IV (“A voter
10 who provides no proof of identity (or invalid proof of identity) must be issued a
11 conditional provisional ballot. A.R.S. § 16-579(A)(2). In order for a conditional
12 provisional ballot to count, the voter must present an acceptable form of identification to
13 the County Recorder by 5:00 p.m. on the 5th business day following a primary, general,
14 or special election that includes an election for a federal office, or by 5:00 p.m. on the 3rd
15 business day following any other election.”). Forgetting to sign an early ballot is, in the
16 Secretary’s view, the functional equivalent of forgetting to bring identification to the
17 polls. Voters who forget to bring identification may still cast votes, but their votes only
18 count if they return during the cure period to verify their identity. The Secretary believed
19 that a consistent cure period should be available for early ballot voters who forget to
20 provide their signature (i.e., identification) on the ballot affidavit.

21 To that end, the Secretary agreed to include the Additional Cure Period in the
22 Elections Procedure Manual to ensure uniformity, efficiency, and impartiality by
23 adopting identical time periods for voters to “cure” early ballots with “mismatched”
24 signatures, early ballots with “missing” signatures, and conditional provisional ballots.
25 The Secretary believed that adopting uniform cure procedures would benefit Arizona’s
26 voters by reducing voter confusion and by ensuring that eligible voters are not excluded
27 from the democratic process simply because they forgot to sign their name or
28 misunderstood the instructions on their ballots. The Secretary also felt that statewide

uniform procedures for curing early ballots with missing signatures would not impose a significant burden on county election officials, because all counties already were required to employ a post-election cure period for mismatched signatures and conditional provisional ballots, *see* 2014 and 2019 Elections Procedures Manuals; A.R.S. § 16-550(A). However, the counties were inconsistent in the way they handled early ballots with missing signatures. Therefore, the Secretary further believed that including the Additional Cure Period for ballots with missing signatures would “achieve and maintain the maximum degree of correctness” by increasing consistency across the counties and ensuring that more eligible voters’ ballots are actually counted in the election.

2. Explain how you believed that the Additional Cure Period “achieve[d] and maintain[ed] 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” as required by A.R.S. § 16-452.

RESPONSE: The Secretary was advised by counsel, the Attorney General’s Office, regarding her authority under A.R.S. § 16-452 to include the Additional Cure Period in the Elections Procedures Manual.

The Secretary believed that the Additional Cure Period for ballots with missing signatures was authorized pursuant to A.R.S. § 16-550(A) and A.R.S. § 16-452. A.R.S. § 16-550(A) allows voters whose ballot signatures are inconsistent with their voter registration records to correct or confirm their inconsistent signatures until the fifth business day after an election that includes a federal office or the third business day after any other election. Because this statute is silent on the cure period for ballots with missing signatures, the Secretary believed that it was within her authority under A.R.S. § 16-452 to fill this procedural gap and adopt the same cure period for ballots with missing signatures. A.R.S. § 16-452 specifically directs the Secretary “prescribe rules” in the Elections Procedures Manual “to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and

1 voting, and of producing, distributing, collecting, counting, tabulating and storing
2 ballots.” In the Secretary’s view, there is no meaningful difference between a ballot with
3 a missing signature and a ballot with a mismatched signature. In both instances, the
4 problem is that the voter’s identity cannot be verified—a problem that is resolved by
5 notifying the voter and allowing them to verify their identity.

6 Further, the Elections Procedures Manual provides for the same cure period for
7 conditional provisional ballots when a voter fails to present identification at a voting
8 location on an election day. *See* 2019 Elections Procedures Manual Ch. 9 § IV (“A voter
9 who provides no proof of identity (or invalid proof of identity) must be issued a
10 conditional provisional ballot. A.R.S. § 16-579(A)(2). In order for a conditional
11 provisional ballot to count, the voter must present an acceptable form of identification to
12 the County Recorder by 5:00 p.m. on the 5th business day following a primary, general,
13 or special election that includes an election for a federal office, or by 5:00 p.m. on the 3rd
14 business day following any other election.”). Forgetting to sign an early ballot is, in the
15 Secretary’s view, the functional equivalent of forgetting to bring identification to the
16 polls. Voters who forget to bring identification may still cast votes, but their votes only
17 count if they return during the cure period to verify their identity. The Secretary believed
18 that the same should be true for early ballot voters who forget their signature (i.e.,
19 identification).

20 To that end, the Secretary agreed to include the Additional Cure Period in the
21 Elections Procedure Manual to ensure uniformity, efficiency, and impartiality by
22 adopting identical time periods for voters to “cure” early ballots with “mismatched”
23 signatures, early ballots with “missing” signatures, and conditional provisional ballots.
24 The Secretary believed that adopting uniform cure procedures would benefit Arizona’s
25 voters by reducing voter confusion and by ensuring that eligible voters are not excluded
26 from the democratic process simply because they forgot to sign their name or
27 misunderstood the instructions on their ballots. The Secretary also felt that statewide
28 uniform procedures for curing early ballots with missing signatures would not impose a

1 significant burden on county election officials, because all counties already were required
 2 to employ a post-election cure period for mismatched signatures and conditional
 3 provisional ballots, *see* 2014 and 2019 Elections Procedures Manuals; A.R.S. § 16-
 4 550(A). However, the counties were inconsistent in the way they handled early ballots
 5 with missing signatures. Therefore, the Secretary further believed that including the
 6 Additional Cure Period for ballots with missing signatures would “achieve and maintain
 7 the maximum degree of correctness” by ensuring that more eligible voters’ ballots are
 8 actually counted in the election.

9 **3. Identify what burdens, if any, you anticipated the Additional Cure**
 10 **Period would impose on any election officials or the State of Arizona.**

11 **RESPONSE:** The Secretary objects to the term “burdens” as vague and
 12 ambiguous. Subject to that objection, and construing the term “burdens” according to its
 13 ordinary meaning, the Secretary anticipated that the Additional Cure Period would
 14 presumably result in more voters curing their early ballots after an election day, which
 15 would require county elections officials to process those cured ballots. However, because
 16 the counties already were required to handle the “cure” process for early ballots with
 17 mismatched signatures and conditional provisional ballots, the Secretary anticipated that
 18 the Additional Cure Period would not cause any significant increase in costs or resources.

19 Some counties have indicated that the Additional Cure Period would not cause an
 20 administrative burden at all. For example, election officials in Apache County, Navajo
 21 County, and Coconino County—all of whom entered into their own settlement
 22 agreements with the Navajo Nation Plaintiffs—have indicated that they would prefer to
 23 adopt the Additional Cure Period. Other county officials have expressed that they would
 24 prefer not to adopt the Additional Cure Period. For example, the Secretary is aware that
 25 Pima County Recorder F. Ann Rodriguez has publicly opposed the Additional Cure
 26 Period.

27 **4. Identify why you believed that the benefits of including the Additional**
 28 **Cure Period outweighed any burdens identified in your response to Interrogatory**

1 **No. 3, such that you included the Additional Cure Period in the October 2019 draft**
2 **Elections Procedure Manual.**

3 **RESPONSE:** The Secretary objects to the terms “benefits,” “burdens,” and
4 “outweighed” as vague and ambiguous. Subject to that objection, and construing these
5 terms according to their ordinary meanings, the Secretary responds as follows:

6 In the Secretary’s view, there is no meaningful difference between a ballot with a
7 missing signature and a ballot with a mismatched signature. The voter’s signature serves
8 as a means of identity verification, and whether the voter’s signature is missing or deemed
9 a mismatch, the problem is that the voter’s identity cannot be verified—a problem that is
10 resolved by notifying the voter and allowing them to resolve the deficiency. Because
11 A.R.S. § 16-550(A) is silent on the cure period for ballots with missing signatures, the
12 Secretary believed that it was within her authority under A.R.S. § 16-452 to adopt uniform
13 cure periods for ballots with missing signatures and ballots with inconsistent signatures.
14 It is also the Secretary’s view that forgetting to sign an early ballot is the functional
15 equivalent of forgetting to bring identification to the polls on Election Day. The Secretary
16 thus believed that it was within her authority under A.R.S. § 16-452 to adopt a uniform
17 post-election cure period for early ballot voters who forgot to provide their signature (i.e.,
18 identification) on the early ballot affidavit and conditional provisional ballot voters who
19 forgot to bring identification on Election Day. *See* 2019 Elections Procedures Manual
20 Ch. 9 § IV.

21 The Secretary believed that the Additional Cure Period in the Elections Procedures
22 Manual would ensure uniformity, efficiency, and impartiality by adopting identical time
23 periods for voters to “cure” early ballots with “mismatched” signatures, early ballots with
24 “missing” signatures, and conditional provisional ballots. The Secretary believed that
25 adopting uniform cure procedures would benefit Arizona’s voters by reducing voter
26 confusion and by ensuring that eligible voters are not excluded from the democratic
27 process simply because they forgot to sign their name or misunderstood the instructions
28 on their ballots. The Secretary also felt that statewide uniform procedures for curing early

1 ballots with missing signatures would not impose a significant burden on county election
2 officials, because all counties already were required to employ a post-election cure period
3 for mismatched signatures and conditional provisional ballots, *see* 2014 and 2019
4 Elections Procedures Manuals; A.R.S. § 16-550(A). However, the counties were
5 inconsistent in the way they handled early ballots with missing signatures. Therefore, the
6 Secretary further believed that the Additional Cure Period for ballots with missing
7 signatures would “achieve and maintain the maximum degree of correctness” by ensuring
8 that more eligible voters’ ballots are actually counted in the election.

9 The Secretary believed that county officials could feasibly implement the
10 Additional Cure Period with existing resources. To be sure, the Secretary anticipated that
11 the Additional Cure Period would presumably result in more voters curing their early
12 ballots after Election Day, which would require county elections officials to process those
13 cured ballots. But the counties already were required to implement a post-election “cure”
14 process for early ballots with mismatched signatures and conditional provisional ballots,
15 so the Secretary anticipated that the Additional Cure Period would not cause any
16 significant increase in costs or resources. Some counties have indicated that the
17 Additional Cure Period would not cause an administrative burden at all. For example,
18 election officials in Apache County, Navajo County, and Coconino County—all of whom
19 entered into their own settlement agreements with the Navajo Nation Plaintiffs—have
20 indicated that they would prefer to adopt the Additional Cure Period.

21 **5. Explain why the Additional Cure Period is not included in the final**
22 **Elections Procedure Manual, which went into effect on December 20, 2019 (“Final**
23 **Manual”).**

24 **RESPONSE:** The Secretary objects to Interrogatory No. 5 because it is
25 vague and overbroad by making an unqualified request for all reasons “why” the
26 Additional Cure Period was not included in the final Elections Procedures Manual.
27 Subject to that objection, the Secretary interprets Interrogatory No. 5 as requesting any
28

1 reason that may be relevant to any party's claims or defenses in the above-entitled action,
2 and responds as follows:

3 Under A.R.S. § 16-452(B), the Elections Procedures Manual must "be issued not
4 later than December 31 of each odd-numbered year immediately preceding the general
5 election," and it must first "be approved by the governor and the attorney general." The
6 Secretary is required to "submit the manual to the governor and the attorney general not
7 later than October 1 of the year before each general election." *Id.* On October 1, 2019, the
8 Secretary sent the Attorney General and the Governor a draft Elections Procedures
9 Manual that included the Additional Cure Period.

10 On November 12, 2020, Evan Daniels, on behalf of the Attorney General's Office,
11 sent a revised draft Elections Procedures Manual to Assistant Secretary of State Allie
12 Bones and Election Services Director Sambo (Bo) Dul. The Attorney General's Office
13 included a spreadsheet explaining the purpose of each revision, and a cover letter that
14 categorized the revisions as "critical," "important," "recommendations," or "discussion
15 items." The "critical" items were described as "[i]nstances where the draft Manual
16 violates or conflicts with statutory provisions, exceeds statutory authority, or fails to
17 address the Manual's statutory requirements." In the revised draft, the Attorney General's
18 Office made the following revisions to the Additional Cure Period:

19 If **not satisfied** that the signatures were made by the same person ~~or if the~~
20 ~~early ballot affidavit is missing a signature~~, the County Recorder shall make
21 a reasonable and meaningful attempt to contact the voter via mail, phone,
22 text message, and/or email, notify the voter of the inconsistent signature,
23 and allow the voter to ~~provide~~, correct, or confirm the signature. The
24 County Recorder shall attempt to contact the voter as soon as practicable
25 using any contact information available in the voter's record and any other
26 source reasonably available to the County Recorder.

25 Voters must be permitted to correct or confirm an inconsistent ~~or missing~~
26 signature until 5:00 p.m. on the fifth business day after a primary, general,
27 or special election that includes a federal office or the third business day
28 after any other election. For the purposes of determining the applicable
signature cure deadline, ~~(i) the PPE is considered a federal election; and~~
~~(ii) for counties that operate under a four day workweek, only days on~~

~~which the applicable county office is open for business are considered “business days.”.~~

If the early ballot affidavit is not signed, the County Recorder shall reject the ballot. The County Recorder shall then make a reasonable and meaningful attempt to contact the voter via mail, phone, text message, and/or email, to notify the voter the ballot was rejected and provide the voter an opportunity to cast a replacement early or provisional ballot before 7:00pm on Election Day. The County Recorder shall attempt to contact the voter as soon as practicable using any contact information available in the voter’s record and any other source reasonably available to the County Recorder. Neither replacement ballots nor provisional ballots can be issued after 7:00pm on Election Day.

The Attorney General’s Office labeled these revisions as “critical” in the accompanying spreadsheet, and claimed that allowing a voter to “cure” an unsigned early ballot violates Arizona law. The Attorney General’s office insisted that the unsigned ballot must be rejected and a “[n]ew ballot must be issued and received before the close of elections.”

The Secretary believed that the Attorney General’s proposed requirement that elections officials automatically “reject” an early ballot with a missing signature would create an unnecessary barrier for voters to ensure their ballot is counted. Refusing to allow voters to cure their unsigned ballots would prevent eligible voters from having their votes counted simply because they misunderstood the instructions or forgot to sign their ballots. The Secretary’s Office provided notes in the Attorney General’s spreadsheet explaining that: the Additional Cure Period is not prohibited by Arizona law; the relevant statute is silent on the cure period for early ballots with missing signatures; the Secretary has authority to fill in that procedural gap through the Elections Procedures Manual; and the Secretary has an obligation to include the Additional Cure Period under the Navajo Nation Settlement. The Secretary’s Office further explained that the Additional Cure Period would establish uniformity among the counties, and the Attorney General’s position would needlessly disenfranchise voters.

1 The Additional Cure Period ultimately became one of the final points of
 2 disagreement in the Attorney General’s review, and he refused to approve the Elections
 3 Procedures Manual with the Additional Cure Period.³ While the Attorney General does
 4 not have the final say on the draft, the Secretary cannot issue the final Elections
 5 Procedures Manual without his approval. A.R.S. § 16-452(B). Indeed, the Attorney
 6 General refused to approve the draft manual in 2018, so the Elections Procedures Manual
 7 had not been updated since 2014. The Secretary decided that it was in the best interest of
 8 Arizona’s voters that their elections officials rely on an updated manual as they head into
 9 an important election year.

10 On December 17, 2019, Allie Bones, Bo Dul, and William Gaona from the
 11 Secretary’s Office had a final meeting with Joseph Kanefield, Beau Roysden, Evan
 12 Daniels, and Jennifer Wright from the Attorney General’s Office and Anni Foster and
 13 Daniel Ruiz from the Governor’s Office to negotiate the final revisions to the Elections
 14 Procedures Manual. In the end, to get the Attorney General to approve the manual, the
 15 Secretary accepted his removal of the Additional Cure Period, but she revised his new
 16 proposed language to instead allow voters to “cure the missing signature or cast a
 17 replacement ballot before 7:00pm on Election Day.” 2019 Elections Procedures Manual
 18 Ch. 2 § VI.A.1. The Secretary believed that an updated Elections Procedures Manual was
 19 too important to abandon over a disagreement on the issue, the 7:00pm Election Day cure
 20 period was better for voters than no cure period at all as the Attorney General initially
 21 insisted, and the availability of a post-election cure period could be further addressed in
 22 subsequent litigation by the Navajo Nation or other plaintiffs or through legislation.

23
 24
 25 ³ The Arizona Capitol Times reported that “an aide to [Attorney General] Brnovich said
 26 he will provide his approval only if the manual removes the language about voters being
 27 able to cure their ballots after Election Day.” Howard Fischer, *Navajo Nation threatens*
 28 *AG with lawsuit over elections procedures*, Ariz. Capitol Times (Dec. 18, 2019),
<https://azcapitoltimes.com/news/2019/12/18/navajo-nation-threatens-ag-with-lawsuit-over-elections-procedures/>.

1 **6. Aside from anyone in your office, identify the individuals or entities**
2 **involved in preventing the Additional Cure Period from being included in the Final**
3 **Manual.**

4 **RESPONSE:** The Secretary objects to Interrogatory No. 6 because the term
5 “involved in preventing” is vague, ambiguous, and overbroad. Subject to that objection,
6 the Secretary identifies the following individuals and entities:

7 The Office of the Attorney General
8 2005 N. Central Avenue
9 Phoenix, Arizona 85004
 Telephone: (602) 542-5200

10 Mark Brnovich, Arizona Attorney General
11 2005 N. Central Avenue
12 Phoenix, Arizona 85004
 Telephone: (602) 542-5200

13 Joseph Kanefield, Chief Deputy and Chief of Staff
14 2005 N. Central Avenue
15 Phoenix, Arizona 85004
 Telephone: (602) 542-5200

16 Beau Roysden, Appeals and Constitutional Litigation Division Chief
17 2005 N. Central Avenue
18 Phoenix, Arizona 85004
 Telephone: (602) 542-5200

19 Evan Daniels, Assistant Attorney General
20 2005 N. Central Avenue
21 Phoenix, Arizona 85004
 Telephone: (602) 542-5200

22 Jennifer Wright, Assistant Attorney General
23 2005 N. Central Avenue
24 Phoenix, Arizona 85004
25 Telephone: (602) 542-5200

26 These attorneys participated in reviewing the draft Elections Procedures manual,
27 and they refused to approve the Elections Procedures Manual with the Additional Cure
28 Period.

7. As to the individuals referenced in Interrogatory No. 6, explain any justifications they provided you for not including the Additional Cure Period in the Final Manual.

RESPONSE: The attorneys at the Attorney General’s Office referenced in Interrogatory No. 6 provided the following justifications for refusing to approve the Elections Procedures Manual with the Additional Cure Period:

They claimed that the Additional Cure Period violates A.R.S. §§ 16-548(A), 16-552(B), and 16-566(B).

They claimed that it “is not possible” for a voter to confirm that a ballot with no signature is the voter’s ballot.

They claimed that the Additional Cure Period violates the statutory intent and legislative history of A.R.S. § 16-550(A), because the legislature amended a prior draft of the bill to exclude the word “missing” from the final enacted statute.

DATED this 9th day of July, 2020.

COPPERSMITH BROCKELMAN PLC

By /s/ Roopali H. Desai

Roopali H. Desai
D. Andrew Gaona
Kristen Yost

Attorneys for Defendant Katie Hobbs

VERIFICATION

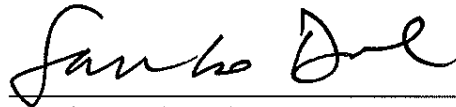
I, Bo Dul, declare as follows:

I am the Election Services Director for the Arizona Secretary of State, a defendant in the above-entitled action, and I am authorized to make this verification on her behalf.

I have read the foregoing Responses to Plaintiffs' First Set of Interrogatories to the Secretary of State and, to the best of my knowledge, information, and belief, verify that the statements made therein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 9th day of July, 2020.



Sambo (Bo) Dul
Election Services Director
Arizona Secretary of State's Office

WILLIAM P. RING
COCONINO COUNTY ATTORNEY
110 E. CHERRY AVENUE
FLAGSTAFF, ARIZONA 86001-4627
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State Bar No. 012860
Rose Winkeler
Deputy County Attorney
State Bar No. 025023
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(928) 679-8200
rwinkeler@coconino.az.gov
Attorney for Coconino County

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

The Arizona Democratic Party; The Democratic
National Committee; DSCC

Plaintiffs,

v.

Katie Hobbs, in her official capacity as Secretary of
State for the State of Arizona; Edison Wauneka, in his
official capacity as Apache County Recorder; David
Stevens, in his official capacity as Cochise County
Recorder; Patty Hansen, in her official capacity as
Coconino County Recorder; Sadie Jo Bingham, in her
official capacity as Gila County Recorder; Wendy
John, in her official capacity as Graham County
Recorder; Sharie Miheiro, in her official capacity as
Greenlee County Recorder; Richard Garcia, in his
official capacity as La Paz County Recorder; Adrian
Fontes, in his official capacity as Maricopa County
Recorder; Kristi Blair, in her official capacity as
Mohave County Recorder; Michael Sample, in his
official capacity as Navajo County Recorder; F. Ann
Rodriguez, in her official capacity as Pima County
Recorder; Virginia Ross, in her official capacity as

No. CV-20-01143-PHX-DLR

**DECLARATION OF
PATTY HANSEN**

*(Assigned to the Honorable
Douglas L. Rayes)*

1 Pinal County Recorder; Susanne Sainz, in her official
2 capacity as Santa Cruz County Recorder; Leslie
3 Hoffman, in her official capacity as Yavapai County
Recorder; and Robyn Pouquette, in her official
capacity as Yuma County Recorder,

4 Defendants.

5
6 I, Patty Hansen, Coconino County Recorder, hereby declare that the following is
7 true to the best of my knowledge, information, and belief:
8

9 1. I have served as the elected Recorder of Coconino County since January
10 2013. Prior to being elected as the County Recorder, I served as the Elections
11 Administrator of Coconino County from June 2003 to my election as Recorder. Prior to
12 be hired as Coconino County Elections Administrator, I was an Elections Specialist in
13 Hennepin County, MN; Elections Specialist in Ramsey County, MN; Elections Specialist
14 in the Minnesota Secretary of State's office; and Election Commissioner and Chief
15 Deputy Election Commissioner in Lancaster County, NE. I began my career in elections
16 administration in April 1987.

17 2. For the reasons explained below, I do not think that unsigned early ballots
18 that are received by my office should be treated any differently than early ballots that are
19 submitted with signatures on the early ballot affidavit envelope that we believe may not
20 match the voter's registration records. We would be able to process unsigned early ballots
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1 during the five business day post-election day period when we currently allow these other
2 voters to prove their identity.

3 **A. Current Process for Unsigned Early Ballots**
4

5 3. For unsigned early ballots that are received before Election Day, my staff
6 attempts to contact the voter by phone or mail them a letter informing them that their mail
7 ballot cannot be accepted, and instructs them to either come into our office to sign their
8 early ballot affidavit envelope prior to 7 pm on Election Day, or go to an in-person early
9 voting location and vote a replacement early ballot, or vote in person at a polling place on
10 Election Day. These calls do not take more than 2-3 minutes per voter, and only take
11 around 30 seconds if the voter does not pick up their phone.

12 4. If an unsigned early ballot is received prior to the deadline to mail an early
13 ballot to a voter (the eleventh day prior to the election), we will offer to mail a
14 replacement ballot to the voter. After the eleventh day prior to the election the voter will
15 need to come into our Flagstaff office to sign their early ballot envelope, or go to an in-
16 person early voting location and vote a replacement early ballot, or go to a polling place
17 on Election Day and vote.

18 5. We record these actions on a green 'problem sheet' that we clip to the
19 ballot (which is kept in an alphabetized box with other unsigned early ballots), and in a
20 ballot tracking spreadsheet.
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1 6. On Election Day itself, my office typically receives ballots from the Post
2 Office at around 11 am. So, for unsigned ballots that my office receives on Election Day,
3 we cannot mail a replacement ballot because the deadline to mail out early ballots has
4 passed, and there may not be time to contact the voter to tell them to come in and sign
5 their ballot or vote in-person at a polling place. The staff members that contact the
6 problem early ballot voters are usually very busy answering phone calls from the public
7 on Election Day. Early ballots turned in at polling places or dropped off in ballot drop
8 boxes arrive in our office for processing well after 7pm on Election Day. They are
9 transported in sealed transfer containers from the polling places and drop boxes. The
10 transfer containers are not opened and sorted until the Wednesday after the election.

11 7. Voters whose early ballots are not signed but are turned in on Election Day
12 prior to the 7pm deadline are not contacted. So, these early voters who failed to sign
13 their early ballot envelopes but turned them in by the deadline of 7 pm on Election Day
14 are not given the same opportunity to correct the problem of an unsigned early ballot
15 envelope as early voters that had their early ballots arrive prior to Election Day.
16

17 **B. Current Process for Curing Other Ballots Up to Five Days After Election Day**

18 8. Unlike unsigned mail ballots, there are already procedures in place to verify
19 (a) provisional conditional ballots and (b) signatures that do not appear to be written by
20 the voter for up to five business days after an election.
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1 9. To verify provisional conditional ballots, a voter must come to one of our
2 Post-Election ID Verification Sites, which are located throughout the county and are
3 staffed for five business days after an election. The voter must come with sufficient proof
4 of identification within the five-day post-election cure period. The verification process is
5 simple. The voter arrives at the Verification Site and explains that he or she is there to
6 address a provisional conditional ballot, then shows their ID to the Site deputy and
7 completes a form, which the staff at the Site then sends electronically to my office. The
8 whole process takes around 2 minutes per voter.

9
10 10. We have Post-Election ID Verification Sites throughout the county since
11 our county is the second largest county geographically in the contiguous United States.
12 As a result, it would not be feasible for some voters to drive all the way to Flagstaff
13 (where we are headquartered) to verify their ballot. My office already hires and trains
14 individuals to staff the Post-Election ID Verification Sites and makes them deputies of
15 our office for five business days after an election.

16 11. For ballots with a signature that is determined not match another signature
17 the county has on file for the voter (per the process in the Elections Procedure Manual),
18 my staff attempts to reach the voter via phone to alert them to the issue and ask them to
19 verify within five business days after Election Day that they in fact signed their ballot.
20 We allow a voter to verify this over the phone if there is reason to believe that the voter
21 did, in fact, sign their ballot. These calls do not take more than 2-3 minutes per voter, and
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1 only take around 30 seconds if the voter does not pick up their phone. If we are unable to
2 reach a voter via phone, we send them a letter notifying them of the issue, which takes
3 only 2-3 minutes per voter because we use a template letter and already have the voters'
4 mail address in our computer system, so we only have to print a mailing label.

5
6 12. While some ballots with a signature that is determined not to match another
7 signature the county has on file for the voter are verified over the phone, we do require
8 some to be verified in person. For any ballot where there is reason to believe that the
9 voter did not sign it—for example, for one family with four children who were all away
10 at college, and the ballot signatures of the four children looked very similar to their
11 father's ballot signature—I insist that the voter come into our office to verify their ballot
12 in person.

13 13. We record these actions on a green 'problem sheet' that we clip to the
14 ballot (which is kept in an alphabetized box with other problem signature early ballots),
15 and in a ballot tracking spreadsheet.

16 **C. Anticipated Process for Curing Unsigned Mail Ballots After Election Day**

17
18 14. If Plaintiffs' requested relief were granted, the first step of a post-election
19 cure process for unsigned ballots would be to locate unsigned ballots. Ballots received on
20 Election Day must be stamped with the date the ballot was received, and unsigned ballots
21 could be easily separated out as they are discovered during that stamping process. That
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1 would require no extra work for my staff since they already go through all the ballots
2 received on Election Day.

3 15. The second step of a post-election cure process for unsigned ballots would
4 be providing a cure opportunity. My approach—subject to guidance from the Secretary of
5 State to ensure uniformity across all counties—would begin the same as that for ballots
6 deemed to have a mismatched signature, and the same as for unsigned early ballots
7 received before Election Day. That is, my office would attempt to reach the voter via
8 phone to alert them of the issue. Like the notification process for signature mismatches, I
9 would expect this effort to take only 2-3 minutes per voter, and only around 30 seconds if
10 a voter does not answer their phone. If my staff could not reach the voter via phone, we
11 would send them a letter notifying them of the issue, which again would only take about
12 2-3 minutes per voter.

13 16. The third and final step in the process would either track the procedure for
14 verifying provisional conditional ballots in-person, or could potentially be administered
15 online. Under the existing in-person process, my office would direct voters who did not
16 sign their ballots to go to a Post-Election ID Verification Site within five business days
17 after the election. My office would prepare a cure affidavit template form for the voter to
18 sign averring that they did, in fact, fill out their ballot. I would expect the time from when
19 a voter comes into the Verification Site to the time they sign the form cure affidavit to
20 take no more than 2 minutes per voter.
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1 17. In addition to the in-person opportunity to cure, I would consider posting
2 the cure affidavit form online and letting voters send an electronic scan or photograph of
3 a signed version of it. The signature on the cure affidavit would then be subject to the
4 same signature match process as all other mail ballots by comparing the signature on the
5 signed affidavit to the signature on their voter registration records. Just like unsigned
6 ballots prior to Election Day and ballots with mismatched signatures up to five business
7 days after Election Day, we would record these actions on a green 'problem sheet' that
8 we would clip to the ballot (which we would keep in an alphabetized box with other
9 unsigned early ballots), and in a ballot tracking spreadsheet.

10 18. Because of the geographical expanse of our county, it would not be feasible
11 to make voters come into my office to sign their unsigned mail ballots before the fifth
12 business day after Election Day, and it may not be feasible to send the unsigned ballots to
13 the Post-Election ID Verification Site closest to the voter to be signed there. That is why I
14 think it would make sense to rely on a cure affidavit.

15
16 19. Because we already have staff on hand to call voters and notify them of
17 signature mismatch issues for five days after an election, and because we already have
18 Post-Election ID Verification Sites set up and staffed for five business days after an
19 election, we would not need to hire additional staff to administer a five business day post-
20 election cure period for unsigned ballots. The proposed five business day post-election
21 cure period for unsigned ballots could be administered in tandem with and would use the
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23

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1 same processes as the five business day signature match and provisional conditional
2 ballot processes. Our existing staff would be able to keep up with the volume of unsigned
3 ballots we typically receive on Election Day, based on my 33 years of experience. I
4 therefore would not expect any significant financial or other impact on my office if we
5 provided a five business day post-election cure period for unsigned mail ballots.

6 20. As a result, I do not think that the requested post-election cure period for
7 unsigned ballots would be a burden on my office.

8 21. Instead, I think the requested post-election cure period for unsigned ballots
9 would promote the orderly administration of elections.


10 22. Since, in my experience, voters do utilize the pre-election cure period to
11 resolve unsigned ballots received by my office before Election Day, I am confident that
12 the proposed post-election cure period would increase the number of lawfully cast votes
13 that are counted. I strongly believe that every lawfully cast vote should be counted.

14 23. I do not think that the requested post-election cure period for unsigned mail
15 ballots would have any impact on the timing of certifying election results since my office
16 already must wait five business days after an election for provisional conditional votes
17 and signature matching issues to be resolved.

18 24. I support Plaintiffs' request for relief.

1 I, Patty Hansen, declare under penalty of perjury that the statements in this Declaration are
2 a true and correct.

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5 DATED this 10 day of August, 2020.

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8 Patty Hansen
9 Coconino County Recorder

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

The Arizona Democratic Party, et al.,

Plaintiffs,

v.

Katie Hobbs, et al.,

Defendants,

and

State of Arizona, Republican National
Committee, Arizona Republican Party, and
Donald J. Trump for President, Inc.,

Intervenor-Defendants.

No. CV-20-1143-PHX-DLR

**DECLARATION OF
HERSCHEL FINK**

Assigned to the Honorable
Douglas L. Rayes

Pursuant to 20 U.S.C. § 1746, I, Herschel Fink, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this declaration, and can competently testify to their truth.

2. I am the Executive Director of the Arizona Democratic Party (“ADP”).

Structure and Purpose of ADP

3. ADP is a state committee of the Democratic Party, as defined by 52 U.S.C. § 30101(15).

4. ADP has members and constituents from across Arizona, including the Democratic candidates who run on the Democratic ticket for office in Arizona, as well as the Arizona voters who regularly support and vote for candidates affiliated with the Democratic Party.

5. ADP is a formal membership organization, comprised of members who are registered Democrats, consistent with the Bylaws of the Arizona Democratic Party. As of August 2020, the Arizona Secretary of State’s website reports that there are 1,293,074 Arizonans who are registered as Democratic voters.

6. ADP represents the interests of registered Democrats in Arizona and candidates who run and are elected on the Democratic ticket and it considers these voters, candidates, and officeholders to be among its membership and its constituents. Accordingly, ADP takes the opinions of registered Democrats and Democratic candidates and office holders into account in setting its organizational priorities. For example, ADP listens to the opinions voiced by members and constituents at local caucus meetings that are open to Democrats. It also considers issues affecting registered Democrats in setting its organizational priorities.

7. Registered Democrats also make financial contributions that fund ADP’s activities, in addition to other sources.

8. The purpose of ADP is to elect candidates of the Democratic Party and promote Democratic ideals in the State of Arizona.

9. Generally, as part of its efforts to elect Democrats, ADP engages in vitally important activities, including supporting Democratic Party candidates in national, state, and local elections through fundraising and organizing efforts; protecting the legal rights of voters; and ensuring that all voters have the meaningful ability to cast ballots in Arizona, including mail ballots. Laws and rules that hamper the ability of voters to vote for Democratic candidates—either burdening their ability to do so or disenfranchising them entirely—directly affects and undermines ADP’s ability to carry out its core purpose of electing Democrats to federal, state, and local office in Arizona.

10. To further its efforts to elect Democrats, each year ADP engages in extensive get out the vote (“GOTV”) and voter protection activities. Through ADP’s extensive experiences in voter education, it has become clear that a major reason people do not vote (or do not have their ballots successfully counted) is because they are not sure of the rules. To combat this lack of clarity, ADP regularly issues educational directives to its supporters conveying information about what Arizonans need to do to vote and to successfully have their ballots counted.

11. As part of its GOTV efforts, ADP engages in a robust mail voter contact program, informing thousands of voters statewide about their ability to cast mail ballots; the rules and deadlines surrounding vote by mail; and encouraging voters to utilize vote-by-mail.

12. With regard to the 2020 General Election, this is a presidential election year in which ADP expects Arizona to be a battleground state. Further, the race between Martha McSally and Mark Kelly is viewed by ADP as critical to control of the United States Senate. Accordingly, working closely with various campaigns and national party committees (including the Democratic National Committee and the DSCC), ADP is making significant expenditures—including, for example, through staff time and mail campaigns—to educate, register, mobilize, and turn out Democratic voters in Arizona.

Lack of a Post-Election Cure Period for Ballots with Missing Signatures

13. Voters whose signatures on their mail ballots do not match the signature in the voter's registration record ("signature mismatches") are afforded an opportunity to correct their signature after election day, for up to five business days.

14. But voters whose mail ballots are rejected for missing signatures—a determination that the voter's signature, executed on the envelope containing the ballot, is missing—have no similar opportunity to cure their ballot after the election. If not remedied by 7 p.m. on Election Day, their votes are simply not counted. I will refer to this lack of a post-election cure period as the "Inadequate Cure Period."

15. As explained below, ADP makes extensive efforts each election to assist voters (whose ballots have initially been rejected due to signature issues) to work with election officials to get their vote counted. The Inadequate Cure Period directly harms ADP in a variety of ways.

16. In my experience, it is inevitable that Democrats, or those who would vote for Democrats, will not have their vote counted in the upcoming election, and in future elections, as a result of the failure to allow voters to cure missing signatures after election day. This is because, given our efforts in past elections, ADP works with Democratic voters each and every election to try to help them cure missing and mismatched signature issues. I'm not aware of any election, since I became Executive Director in November 2016, where at least one Democratic voter did not have their ballot rejected due to a missing signature issue.

17. As a result, the Inadequate Cure Period burdens and disenfranchises the very voters ADP seeks to support.

18. Further, the fact that Democrats will not have their votes counted also decreases the overall likelihood that ADP will be successful in its mission to help elect Democratic candidates to public office. But regardless of the outcome of a given election, disenfranchisement of any given Democratic voter directly undermines ADP's mission and

means that we must, in essence, work harder to ensure that other voters turn out at the polls or vote by mail ballot.

19. ADP engages in extensive efforts to contact voters whose ballots are not counted due to issues with their signatures, including signature mismatches or missing signatures. ADP does so to get voters to correct these issues so that their ballot is counted. We refer to this effort as “ballot chase.”

20. Based on my experience, ballot chase efforts of ADP result in voters curing their ballots. As a result of ballot chase efforts for ballots with respect to mismatched signatures, I am aware that registered Democrats have cured such ballots before and after election day. As a result of ballot chase efforts for ballots with missing signatures, I am aware that registered Democrats have cured such ballots prior to or on election day.

21. Due to the Inadequate Cure Period, we are unable to conduct ballot chase for ballots with missing signatures after election day. This further decreases the likelihood that ADP will be successful in its mission to help elect Democratic candidates to public office.

22. It is much easier for us to conduct a post-election ballot chase, if necessary, because, at this point, the election is over. As explained below, when we are forced to do a pre-election ballot chase program, we must either divert resources from our other pre-election work or fund additional staff to focus on ballot chase.

23. Additionally, in my experience, the Inadequate Cure Period decreases overall confidence in the mail voting process generally, and as a result, directly undermines the efforts ADP takes to encourage voters to utilize mail voting and to assist them in exercising their right to vote.

ADP’s Resultant Efforts

24. As a result of the Inadequate Cure Period, ADP has had to—and will continue to—expend and divert additional funds and resources that it would otherwise spend on other efforts to accomplish its mission in Arizona to combat the effects that Arizona’s Inadequate Cure Period has on Democratic voters.

25. For example, because of the Inadequate Cure Period, ADP is focusing additional educational resources on areas of Arizona with low English literacy rates, including in Navajo, Coconino, and Apache Counties. These include increased voter education efforts by mail. For example, the ADP has sent voter education materials to thousands of Navajo voters and has been creating radio content and video content on social media in native languages. This is due to the heightened risk that voters in such areas will fail to understand mail ballot instructions, inadvertently mail their ballot without a signature, and be disenfranchised if their ballot is received with insufficient time to cure.

26. Were ADP not spending these additional resources on voter education efforts, it would be using this money for critical pre-election organizational priorities, including GOTV and other pre-election voter persuasion, mobilization and turnout efforts. Currently, this consists of a large volume of phone calls and text messages being sent to voters.

27. Further, ADP and the coordinated campaign it runs needs to divert additional resources—including staff time and resources, for example—to contacting voters and assisting voters in curing ballots with missing signatures during the critical pre-election and election day periods. This takes a substantial amount of time and requires individualized communication and efforts in different counties.

28. Were ADP not using staff time and resources to these chase ballots with missing signatures prior to the election, it could instead devote additional time and resources to other critical pre-election organizational priorities, including GOTV and other pre-election voter persuasion, mobilization and turnout efforts. This is particularly important given the current public health crisis and our expectation that voters will be casting additional votes by mail.

I declare under penalty of perjury that the foregoing is true and correct.

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 12, 2020

By: 

Herschel Fink

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 Joshua L. Boehm (SBA #033018)
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

The Arizona Democratic Party, et al.,

Plaintiffs,

v.

Katie Hobbs, et al.,

Defendants,

and

State of Arizona, Republican National
 Committee, Arizona Republican Party, and
 Donald J. Trump for President, Inc.,

Intervenor-Defendants.

No. CV-20-1143-PHX-DLR

**DECLARATION OF
 SARA SCHAUMBURG**

Assigned to the Honorable
 Douglas L. Rayes

1 Pursuant to 20 U.S.C. § 1746, I, Sara Schaumburg, declare as follows:

2 1. I am over the age of 18, have personal knowledge of the facts stated in this
3 declaration, and can competently testify to their truth.

4 2. I serve as the Director of Voter Protection and Deputy Policy Director of
5 DSCC.

6 **Structure of DSCC**

7 3. Plaintiff DSCC is the national senatorial committee of the Democratic Party,
8 as defined by 52 U.S.C. § 30101(14). As set out below, DSCC's mission is to elect
9 Democrats to the U.S. Senate.

10 4. DSCC has individuals who affiliate and engage with it in Arizona, and who
11 DSCC considers to be members and constituents. These include all Democratic voters in
12 the State, who DSCC supports, educates, and works to ensure have access to the franchise.
13 It also includes Democratic Senate candidates and incumbents.

14 5. DSCC solicits input from these members and constituents, which is factored
15 into DSCC's decision making, including the issues behind which DSCC lends its support.
16 For example, DSCC conducts electronic surveys about issues related to DSCC's mission
17 through email, social media, and through mail. DSCC also runs digital ads that contain
18 surveys and petitions about policy priorities. These are completed by individuals in Arizona.

19 6. These members and constituents also make financial contributions that fund
20 DSCC's activities.

21 **Purpose and Activities of DSCC**

22 7. DSCC represents the interests of Democratic voters for the office of U.S.
23 Senator and voters who seek to support Democratic candidates for such office.

24 8. The mission of DSCC is to elect Democratic candidates to the U.S. Senate,
25 including in Arizona.

26 9. DSCC works to accomplish its mission in Arizona and across the country by,
27 among other things, making expenditures for, and contributions to, Democratic candidates

1 for U.S. Senate. It also assists state parties throughout the country, including in Arizona, by
 2 providing financial support to state parties to fund “coordinated campaign” activities that
 3 further the shared interest of electing Democratic candidates for U.S. Senate. These efforts
 4 include, among other things, educating voters about how to correctly fill out their ballots,
 5 curing rejected ballots, and get-out-the-vote efforts.

6 10. In 2020, DSCC has made and expects to continue to make substantial
 7 contributions and expenditures to support the Democratic candidate for U.S. Senate in
 8 Arizona. As currently reported on publicly available Federal Election Commission reports,
 9 DSCC has already spent well over \$1 million in reportable expenditures in Arizona in 2020
 10 related to the U.S. Senate race between Martha McSally and Mark Kelly.

11 **Lack of a Post-Election Cure Period for Ballots with Missing Signatures**

12 11. Under Arizona law, if there is a determination that a voter’s signature on their
 13 ballot does not match the signature in the voter’s registration record (“signature mismatch”)
 14 the voter can confirm or otherwise “cure” their signature after election day, for up to five
 15 business days.

16 12. If a ballot is rejected because it has a missing signature, however, the voter
 17 cannot cure it after 7 p.m. on election day. I refer to this as the “Inadequate Cure Period.”

18 13. The Inadequate Cure Period directly harms DSCC in a variety of ways.

19 14. In my experience, it is inevitable that Democrats in Arizona, or those who
 20 would vote for Democrats in Arizona, will be disenfranchised as a result of the Defendants’
 21 failure to allow voters to cure missing signatures after election day.

22 15. As a result, the Inadequate Cure Period burdens and disenfranchises the very
 23 voters DSCC works to turn out to vote in support of Democratic Senate candidates.

24 16. This also frustrates DSCC’s mission of, and efforts in, electing the
 25 Democratic candidate to the U.S. Senate in Arizona.

26 **DSCC’s Resultant Efforts**

27 17. DSCC is aware of the Inadequate Cure Period and is expanding and diverting
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1 additional funds and resources to voter education efforts and related activities in Arizona to
2 combat the effects of the Inadequate Cure Period in the 2020 General Election for U.S.
3 Senate in Arizona. That is, as explained further below, we have taken the Inadequate Cure
4 Period into account in deciding when and how much money to invest in Arizona. The
5 Inadequate Cure Period results in the disenfranchisement of Democratic voters and so we
6 take steps to combat those consequences.

7 18. Further, because some Democratic voters will have their ballots rejected due
8 to missing signatures and must cure their ballot by the end of election day, DSCC and its
9 partner organizations, including the Arizona Democratic Party, must divert their resources
10 to assist such voters in understanding and following state cure procedures before Election
11 Day, rather than using those resources on pre-election voter persuasion and mobilization.
12 DSCC will also have to turn out more voters than it would otherwise have to, in order to
13 make up for the inevitable voters who will be disenfranchised as a result of the Inadequate
14 Cure Period.

15 19. In particular, DSCC is providing additional funding to the Arizona
16 Democratic Party so that it has sufficient resources to hire staff with a focus on curing
17 rejected ballots and combating the Inadequate Cure Period.

18 20. This includes a Native Vote Outreach Director who will be working on voter
19 outreach and mobilization on the Navajo Nation reservation, including educating voters
20 about their mail ballots. I believe that the Inadequate Cure Period poses particular issues for
21 the Navajo Nation because, among other things, relatively lower English literacy rates
22 among Navajo Nation members increase the likelihood that mail ballot instructions will not
23 be understood and followed.

24 21. We are also providing funding to the Arizona Democratic Party so that it has
25 sufficient resources to hire a Deputy Voter Protection Director who, among other things,
26 will focus on assisting voters to cure rejected ballots. We are providing this financial support
27 earlier in the election cycle, and in a greater amount, than we likely otherwise would
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1 because the Inadequate Cure Period requires missing signatures to be remedied before
2 Election Day.

3 22. Finally, DSCC dedicates staff time to planning and providing guidance to the
4 Kelly campaign and Arizona Democratic Party to maximize turnout and compensate for the
5 disadvantage created by the Inadequate Cure Period. Staff time dedicated to addressing this
6 issue would have been spent on other organizational priorities, including how to deal with
7 cure periods in other states, including North Carolina.

8 23. In general, resources dedicated to the Inadequate Cure Period would be used
9 on critical DSCC organizational priorities including pre-election voter persuasion,
10 mobilization, and turnout, not only in Arizona but also across the country in order to support
11 the election of as many Democrats to the U.S. Senate as possible and potentially reclaim
12 the Senate.

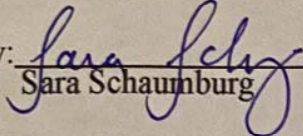
13 24. This is because elections present constant and largely unique problems of
14 resource management. In any given election cycle DSCC has a certain amount of money to
15 spend to support Democrats in races across the country. Because elections take place on a
16 date certain, if a decision is made not to spend money to support a candidate in any given
17 race, that is not a decision that can be done over at any point in the future. At the same time,
18 because DSCC supports candidates all over the country, a decision to spend more of
19 DSCC's finite monetary resources to support a candidate in Arizona necessarily detracts
20 from what DSCC can do to support candidates elsewhere.

21 25. The difficult resource decisions that DSCC must make as a result will mean
22 either that it does not put enough resources in to educate voters about the impact of the
23 Inadequate Cure Period or turn out enough of a "buffer" of voters to make up for those who
24 will be disenfranchised as a result of it (a concern that is only heightened in the context of
25 the current pandemic, which is likely to mean that even more voters than normal will be
26 disenfranchised as a result due to increased volume of mail ballots and/or ballots cast by
27 first time mail ballot voters), or that it takes money away from other competitive races
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1 elsewhere in order to accomplish that.

2 I declare under penalty of perjury that the foregoing is true and correct.

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4 Dated: August 12, 2020

By: 
Sara Schaumburg

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The Arizona Democratic Party, et al.,
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State of Arizona, Republican National
Committee, Arizona Republican Party, and
Donald J. Trump for President, Inc.,

Intervenor-Defendants.

No. CV-20-1143-PHX-DLR

**DECLARATION OF
REYNA WALTERS-MORGAN**

Assigned to the Honorable
Douglas L. Rayes

Pursuant to 20 U.S.C. § 1746, I, Reyna Walters-Morgan, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts stated in this declaration, and can competently testify to their truth.

2. I serve as Director of Civic Engagement and Voter Protection at the DNC Services Corp/Democratic National Committee, or “DNC.”

Structure, Purpose, and Activities of the DNC

3. The DNC is a national committee, as that term is defined by and used in 52 U.S.C. § 30101(14). It is the official national party committee of the Democratic Party.

4. The DNC has a formal membership structure. The state parties, such as the Arizona Democratic Party, are part of the Democratic Party as a result of their recognition by the DNC, and the DNC is composed of, inter alia, high ranking officers of each recognized state party organization as well as all voters. Charter and Bylaws, art. 2 § 2, available at <https://democrats.org/wp-content/uploads/2018/10/DNC-Charter-Bylaws-8.25.18-with-Amendments.pdf>; id. art. 3 § 2(a); id. art. 8 § 1 (“Charter and Bylaws”). For example, several National Committee members are listed on the Arizona Democratic Party’s website. <https://azdem.org/our-leadership/>.

5. The DNC has individuals who affiliate and engage with it in Arizona and candidates who run and are elected on the Democratic ticket, who the DNC also considers to be members and constituents, consistent with the Charter and Bylaws. These include all Democratic voters in the State, who the DNC educates and works to ensure have access to the franchise.

6. The DNC solicits input from members and constituents, including Democratic candidates and office holders, which is factored into the DNC’s decision making, including the issues behind which the DNC lends its support.

7. The purpose of the DNC is to elect local, state, and national candidates of the Democratic Party to public office throughout the United States, including in Arizona.

8. To accomplish its mission, among other things, in Arizona and elsewhere, the

DNC works closely with Democratic public officials and assists state parties and candidates by contributing money; making expenditures for their benefit; and providing active support through the development of programs benefiting Democratic candidates. In 2020, the DNC, the Arizona Democratic Party, and candidates across Arizona are coordinating their activities to help elect Democrats up and down the ballot. For example, the DNC is working with the Arizona Democratic Party and candidates across Arizona to coordinate messaging, advise on political strategy, and invest in organizing programs.

9. Further, in 2020, the DNC has made and anticipates making further significant expenditures to educate, register, mobilize, and turn out voters in Arizona. Arizona is a key state in the 2020 election, not only for the Presidential election but also because the U.S. Senate race is of national importance and has garnered national attention.

10. For example, as currently reported on publicly available Federal Election Commission reports, the DNC has already spent hundreds of thousands of dollars in reportable expenditures in Arizona in 2020.

Lack of a Post-Election Cure Period for Ballots with Missing Signatures

11. One of the activities the DNC engages in is assessing state laws and procedures around voting to identify barriers to voting by the DNC's members and constituents. We work closely with our partner organizations such as DSCC and the Arizona Democratic Party in this regard.

12. In Arizona, voters whose signatures on their mail ballots do not match the signature on their registration record ("signature mismatches") can confirm or otherwise "cure" their signature after election day, for up to five business days.

13. Arizona voters whose mail ballots are rejected because their signatures are missing, however, have no similar opportunity to cure their ballot after the election. If not remedied by 7 p.m. on Election Day, their votes are simply not counted. I will refer to this lack of a post-election cure period as the "Inadequate Cure Period."

14. The Inadequate Cure Period directly harms the DNC in a variety of ways.

15. In my experience, it is inevitable that Democrats, or those who would vote for Democrats, will not have their vote counted in the upcoming election, and in future elections, as a result of the failure to allow voters to cure missing signatures after election day. It's "inevitable" because, among other things, it happens *every cycle*, despite efforts to educate voters on the importance of signing the absentee ballots prior to delivering or mailing them back to their county election officials. Regardless of what steps we take, there are and always will be voters who forget to sign their ballot envelopes before returning them. Given the lack of a post-election cure period for voters who forget to sign their ballot envelopes, it is critically important for the DNC to work *prior* to election day to ensure that as many Democratic voters comply with the signature requirement as possible.

16. As a result, the Inadequate Cure Period burdens and disenfranchises the very voters the DNC seeks to support.

17. As a further result, the Inadequate Cure Period decreases the likelihood that the DNC will be successful in its efforts to help elect candidates of the Democratic Party to public office in Arizona.

18. Arizona has a number of competitive Democratic races in the upcoming 2020 General Election and is a key state in the presidential contest (and with regard to a competitive U.S. Senate election); accordingly, it is critical to the DNC's mission that every Democratic vote be counted and that its constituents have an equal opportunity to cast their votes.

DNC's Resultant Efforts

19. The DNC has had to—and will continue to—expend and divert additional funds and resources that it would otherwise spend on efforts to accomplish its mission in Arizona to combat the effects that the Inadequate Cure Period has on Democratic voters.

20. In structuring its overall political activity this election cycle and determining what and how best to allocate resources to and in Arizona, the DNC is aware that ballots with "missing" signatures will not be counted unless cured prior to Election Day, and that

1 Arizona to combat the effects that the Inadequate Cure Period has on Democratic voters.

2 17. In structuring its overall political activity this election cycle and determining
3 what and how best to allocate resources to and in Arizona, the DNC is aware that ballots
4 with "missing" signatures will not be counted unless cured prior to Election Day, and that
5 there is a discrepancy in how counties handle missing signatures, and it makes resource
6 allocation decisions because of this.


7 18. Further, because some Democratic voters will have their ballots rejected due
8 to missing signatures and must cure their ballot by the end of Election Day, funding
9 provided by the DNC to, for example, the Arizona Democratic Party must be diverted to
10 educate voters about, and assist such voters in following, the current cure period. They
11 will also have to turn out more voters than they would otherwise have to in order to make
12 up for the inevitable voters who will be disenfranchised as a result of the inadequate cure
13 period. That, in turn, will require more resources from the DNC that it cannot spend, for
14 example, supporting get out the vote efforts and voter programs elsewhere in the country.

15 19. Otherwise these resources would be used on funding and otherwise
16 supporting critical organizational priorities including pre-election voter persuasion,
17 mobilization, and turnout.

18 I declare under penalty of perjury that the foregoing is true and correct.

19
20 Dated: 8/13/2020

By:


Reyna Walters-Morgan