

No. 16-16698

**In the United States Court of Appeals
For the Ninth Circuit**

LESLIE FELDMAN, *et al.*,

Plaintiffs/Appellants,

and

BERNIE 2016, INC.,

Plaintiff-Intervenor/Appellant,

v.

ARIZONA SECRETARY OF STATE'S OFFICE, *et al.*,

Defendants/Appellees,

and

ARIZONA REPUBLICAN PARTY, *et al.*,

Defendant-Intervenors/Appellees.

On Appeal from the United States District Court for the District of Arizona
Cause No. CV-16-01065-PHX-DLR

**STATE DEFENDANTS/APPELLEES' AND DEFENDANT-
INTERVENORS/APPELLEES' RESPONSE IN OPPOSITION TO THE
EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL AND
FOR EXPEDITED APPEAL**

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I. BACKGROUND

Plaintiffs and Plaintiff-Intervenor (“Plaintiffs”) ask the judiciary here to micro-manage the electoral process and eliminate well-reasoned safeguards to a fair and transparent election. *See Ohio Democratic Party v. Husted*, No. 16-3561, 2016 WL 4437605, at *1 (6th Cir. Aug. 23, 2016) (noting “yet another appeal . . . asking the federal courts to become entangled, as overseers and micromanagers, in the minutiae of state election processes”). In this Circuit, Plaintiffs have rested too long on their laurels and now make that untenable ask. By their own calculations in their Circuit Rule 27-3 Certificate, there were nearly three weeks until early ballots would be sent to Arizona voters when they filed their Notice of Appeal. (Doc. 16 at ix) (noting that on October 4 “eight days remain[ed] before early ballots [we]re sent”). Yet Plaintiffs inexplicably delayed *eleven days* in filing their Motion for Expedited Appeal.

The State Defendants and Defendant-Intervenors¹ (“Defendants”) acknowledge that Plaintiffs were first required to move the district court for a stay of its order and request it enjoin enforcement of H.B. 2023 before bringing their

¹ Defendant-Intervenor Arizona Republican Party understands the district court order stated that individual Defendant-Intervenors Bill Gates, Suzanne Klapp, Debbie Lesko, and Tony Rivero did not participate in the instant motion (ER0002) but it cited the County Defendants’ Notice of Non-Participation (*see* ER2850). The individual Defendant-Intervenors were represented in briefing and argument below (*see* description of Doc. 152, at ER2851), and also jointly file this Response with Defendant-Intervenor Arizona Republican Party, which respectfully requests that they be added as parties.

Emergency Motion Under Circuit Rule 27-3 for Injunction Pending Appeal and for Expedited Appeal (“Motion”). Fed. R. App. P. 8(a)(1). However Plaintiffs did not seek this relief from the district court until five days after the lower court entered its Order denying Plaintiffs’ Motion for Preliminary Injunction of H.B. 2023. ER1-27; 2640.

H.B. 2023’s sensible restrictions were in effect for all but the first three days of early voting for Arizona’s most recent Primary Election—meaning, with regard to early voting, “voters may return their own ballots, either in person or by mail, or they may entrust their ballots to family members, household members, or caregivers.” ER0016; *see* A.R.S. § 16-1005(H), (I). At no time did Plaintiffs request emergency relief or an expedited ruling from the Court based on irreparable harm occurring during the early voting period.

Instead of providing actual evidence, Plaintiffs attempt to discount it, including by characterizing the sworn testimony and admissions of the Executive Director of the Arizona Democratic Party (the “ADP”), the one Plaintiff that the Court found had standing to challenge the validity of H.B. 2023, as something on which the lower court “misplaced” its reliance. ER2651.

Perhaps as a diversion, in their Certificate and throughout their Motion, Plaintiffs selectively quote from a *Yuma Sun* article that was in the record before the district court nearly a month before it issued its ruling. *See* ER2611-19.

Plaintiffs blatantly misrepresent the contents of the article by citing it as evidence that Intervenor-Defendant “Arizona Republican Party has publicly announced its intention to use HB2023 as an excuse to . . . harass voters[.]” (Doc. 16, at vi, 19). In fact, the article reports the exact opposite, quoting Arizona Republican Party spokesman Tim Sifert: “We certainly don’t recommend harassing anybody,” Sifert said, calling the plans “part of documenting something that looks like it could very easily be illegal.” ER2618.² Neither Plaintiffs’ request for emergency relief nor their statements that the balance of hardships tips sharply in their favor should be given much weight when they are based on such selective misrepresentations.

Regardless of the misdirection and conscious delay by the Plaintiffs, the district court’s multiple denials of Plaintiffs’ preliminary injunction requests are founded upon well-reasoned evaluation of the law and facts. Simply, Plaintiffs have not and cannot meet their burden to overcome the important regulatory interests of protecting voters and ensuring an orderly and fair election process.

² In any event, Plaintiffs noticed and took a 30(b)(6) deposition of the Arizona Republican Party. ER3130-31; *see also* ER3157-59 (Decl. of E. Spencer, attached as Ex. C) (Defendants have continued Plaintiffs’ numbering of the ER in Exhibits A (Doc. 153), B (Tr. of Proceedings dated 7/18/16), and C, attached). Mr. Sifert was the 30(b)(6) designee, and Plaintiffs had ample time to discern whether the Party had anything other than appropriate plans regarding the new state law—indeed that was their claimed focus of the deposition. ER3131. Any inappropriate plans would be specifically against the law. *See, e.g.*, A.R.S. § 16-1013 (unlawful to intimidate or coerce an elector); A.R.S. § 16-1017 (illegal to interfere with, induce, or hinder a voter).

II. LEGAL STANDARD FOR RELIEF SOUGHT

Plaintiffs have not demonstrated that they are entitled to an injunction pending appeal, especially because early voting for the General Election begins on October 12, 2016. Plaintiffs must make the same showing for an injunction pending an appeal as for a preliminary injunction. As the district court found, they have not made it, and the district court's conclusion is entitled to deference. *Sw. Voter Registration Education Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003)

Moreover, Plaintiffs cite three cases in support of their assertion that this Court “has granted interim relief where constitutional issues are raised shortly before an election.” (Doc. 16, at 7). None of those cases supports granting interim relief here. In *Southwest Voter Registration*, 344 F.3d at 917, 919, this Court, sitting en banc, dissolved an injunction pending appeal and affirmed the district court's judgment denying an injunction. In *Daily Herald Co. v. Munro*, 758 F.2d 350, 351 (9th Cir. 1984), the Court expedited the appeal, but did not provide interim relief. And in *Garza v. County of Los Angeles*, 918 F.2d 763, 777 (9th Cir. 1990), the Court ordered interim relief postponing an election for county board of supervisors that did not involve other jurisdictions, unlike the combined federal, state, and local election occurring on November 8, 2016, in Arizona.

In addition, the foregoing cases were all decided before *Purcell v. Gonzalez*, 549 U.S. 1, 4-6 (2006), in which the Supreme Court vacated interim relief ordered

by a Ninth Circuit motions panel and allowed the election to go forward with the challenged law in effect. *Id.* at 4-5 (stating that “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls”); *see also id.* at 6 (Stevens, J., concurring) (stating that “[a]llowing the election to proceed without enjoining the statutory provisions at issue will provide the courts with a better record on which to judge their constitutionality,” and that the Court’s action “will enhance the likelihood that [the constitutional issues] will be resolved correctly on the basis of historical facts rather than speculation”).³

III. NEITHER INTERIM RELIEF NOR EXPEDITED REVIEW IS APPROPRIATE.

a. The District Court Properly Found that H.B. 2023 Does Not Violate Section 2.

For their § 2 claim, Plaintiffs had to establish a likelihood of success on their contentions that (1) that H.B. 2023 imposes a discriminatory burden on a minority

³ This case is presently in a procedural posture nearly identical to *Purcell v. Gonzalez*. In that case, the plaintiffs sought to enjoin enforcement of Arizona’s requirements of (1) documentary evidence of citizenship to register, and (2) identification to vote at a polling place on Election Day, which in 2006 fell on November 7. *Purcell*, 549 U.S. at 2-3. This Court granted the injunction pending appeal on October 5, 2006, more than a month before the election. *Id.* at 3. To avoid the confusion caused by changing the rules of an election shortly before it took place, the Supreme Court vacated the interim relief on October 20, 2006. *Id.* at 5. Here the concerns about changing the rules so close to an election are even more pronounced, because H.B. 2023 affects return of early ballots, which voters will start to receive on October 12, 2016.

group (2) as it interacts with social and historical conditions that have produced discrimination. *See Ohio Democratic Party v. Husted*, 2016 WL 4437605, at *13; *Gonzalez v. Arizona*, 677 F.3d 383, 405-06 (9th Cir. 2012) (en banc); 52 U.S.C. § 10301; ER7-8. They failed at both steps.

1. Plaintiffs’ Admitted Failure to Provide Any Quantitative Evidence Precluded a Finding of a Likely Disparate Impact.

Plaintiffs do not challenge the district court’s finding that they “provide[d] no quantitative or statistical evidence comparing the proportion of minority versus white voters who rely on others to collect their early ballots.” ER8. The district court thus correctly determined that “Plaintiffs are not likely to succeed on their § 2 claim because there is insufficient evidence of a statistically relevant disparity between minority as compared to white voters” caused by H.B. 2023. *Id.*⁴

This Court applied § 2 in a similar manner in *Gonzalez*. There, this Court explained that § 2 requires evidence of a “causal connection” between the challenged law and “some relevant statistical disparity between minorities and whites.” *Gonzalez*, 677 F.3d at 405 (internal quotations and citation omitted). Accordingly, the presence of some “Senate Factors” could not save a § 2 claim when plaintiffs failed to prove that the voter ID law at issue caused Hispanic voters to have less opportunity to vote than white voters. *See id.* at 407.

⁴ Plaintiffs’ assertions that the district court applied an incorrect evidentiary standard have no merit. Plaintiffs had the burden to show a likelihood of success on the merits, which they failed to do. *See* ER8, 14, 21-22.

Here, Plaintiffs contend the district court “invented a new test” by requiring quantitative evidence of disparate impact. To the contrary, several courts have emphasized the importance of quantitative evidence in § 2 vote-denial claims. *See One Wisc. Inst., Inc. v. Thomsen*, 15-cv-324-jdp, 2016 WL 4059222, at **47, 49 (W.D. Wis. July 29, 2016) (“[P]laintiffs’ evidence of a disparate burden substantially consists of anecdotes and lay observations . . . This testimony does not establish a verifiable disparate effect.”); *Veasey v. Abbott*, No. 14-41127, 2016 WL 3923868, at *17 (5th Cir. July 20, 2016). (“[C]ourts regularly utilize statistical analysis to discern whether a law has a discriminatory impact.”).⁵

Additionally, the district court correctly observed that quantitative evidence is required to prove disparate impact in other contexts, such as claims arising under the Fair Housing Act, Age Discrimination in Employment Act, Equal Pay Act, Title VII, or 42 U.S.C. § 1983. ER9 (citing numerous cases). Plaintiffs do not address *any* of these authorities, much less explain why their rationale should not apply to VRA cases. Nor do Plaintiffs cite *any* case in which a disparate impact was proven, in the § 2 context or otherwise, without any quantitative evidence.

Plaintiffs instead argue that in § 2 *vote-dilution* cases, some courts have not required quantitative evidence. None of those vote-dilution cases are relevant to a disparate impact analysis. *See Jenkins v. Red Clay Consol. Sch. Dist. Bd. of Educ.*,

⁵ Although the plaintiffs in *Veasey* did not provide voter turnout data, they did provide other quantitative evidence. *See Veasey*, 2016 WL 3923868 at **21-22.

4 F.3d 1103, 1126 (3d Cir. 1993) (discussing evidence to show that a minority candidate is minority-preferred); *Sanchez v. State of Colo.*, 97 F.3d 1303, 1320-21 (10th Cir. 1996) (same); *Cuthair v. Montezuma-Cortez, Colo. Sch. Dist. No. RE-1*, 7 F. Supp. 2d 1152, 1169 (D. Colo. 1998) (addressing proof of political cohesiveness and racial bloc voting).⁶

Plaintiffs also assert (at 8-9) that the district court's analysis "flies in the face" of the VRA's "broad remedial purpose." (quoting *Chisom v. Roemer*, 501 U.S. 380, 403 (1991).) The *Chisom* Court talked about this purpose, however, in holding that § 2 applied to a vote-dilution claim relating to state judicial elections. *See Chisom*, 501 U.S. at 403-04. The remedial purpose of § 2 cannot nullify the claim's essential elements, the first of which "necessarily" requires "a comparative exercise" of the quantitative impact on minority and white voters. ER9.

Plaintiffs further argue they should be excused from producing quantitative evidence because the State does not track the data. But Plaintiffs were unable to explain below (and still cannot explain) why Defendants should bear the burden to provide data for Plaintiffs' § 2 claim, specifically when there is no law that requires them to do so. ER10 n.3. Moreover, Plaintiffs had several options to

⁶ Plaintiffs contend that when § 5 preclearance requirements were used, the Department of Justice ("DOJ") did not require covered jurisdictions to provide quantitative evidence. ER2654. That preclearance scheme, invalidated by the Supreme Court in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), has little to no relevance to the disparate impact analysis here given the tens of thousands of preclearance submissions that DOJ previously received under this scheme.

procure quantitative evidence on H.B. 2023's impact in the absence of state-provided data. The ADP has asserted that it has long been involved in collecting early ballots, ER299-300, yet provides no reason why it did not track data on these collection efforts over the many years that bills with ballot collection provisions were before the Legislature. A failure to require any data would open a Pandora's Box of unsubstantiated legal theories tactically raised immediately before future elections. The district court correctly determined there must be some data to support a claim. None exists here.

2. Even if Quantitative Evidence Was Not Required, Plaintiffs Failed to Show a Likelihood of Disparate Impact.

The district court's conclusion that Plaintiffs failed to show a likelihood of a disparate impact from H.B. 2023 did not rely solely on Plaintiffs' admitted failure to provide *any* quantitative evidence. The district court also correctly held that "[a]ssuming, *arguendo*, that a § 2 violation could be proved using non-quantitative evidence, Plaintiffs' evidence is not compelling." ER10.

Plaintiffs do not challenge (or even address) the many findings by the district court supporting its alternative analysis. For example, the district court concluded that Plaintiffs' declarations were "predominantly from Democratic partisans and members of organizations that admittedly target their [get out the vote] efforts at minority communities," and thus only provided an incomplete picture of ballot collection, which is used by "groups from all ideological

backgrounds.” ER10, 10 n.4 (internal quotations and citation omitted). In response to Plaintiffs’ argument that H.B. 2023 will harm voters in Arizona’s rural communities, the district court explained that Plaintiffs failed to rebut the evidence showing that many of these communities are actually predominantly white. ER11. The district court further concluded that Plaintiffs’ selective use of H.B. 2023’s legislative history and a DOJ preclearance file was “largely duplicative” of their insufficient declarations, did not provide any statewide information on ballot collection, and had been taken out of context. ER11-14.

Plaintiffs also suggest that the district court should have considered socioeconomic inequalities between minority and white voters in its disparate impact analysis. The Senate Factors, including socioeconomic inequalities (Factor 5), only “come[] into play” *after* a plaintiff has shown the requisite disparate impact. *Husted*, 2016 WL 4437605, at *13.

3. Plaintiffs Have Also Failed to Establish a Likelihood of Success on the Second Element of a § 2 Claim.

Because Plaintiffs failed to show a likelihood of success on the first step of a § 2 claim (disparate impact), the district court had no need to reach the second step. ER14. Had it done so, Plaintiffs would have failed at that stage too.

Plaintiffs argue that they view various Senate Factors as present, but that is not enough to establish a likelihood of a § 2 violation. *Gonzalez*, 677 F.3d at 407 (rejecting § 2 claim despite presence of some of the same Senate Factors in

Arizona). Plaintiffs had to show they are likely to succeed in proving that H.B. 2023 *interacts* with Senate Factors to impose a discriminatory impact on minorities, which they failed to do. *See Husted*, 2016 WL 4437605, at *14.

Plaintiffs' evidence on the Senate Factors suffers serious defects. *See* ER1048-49, 1390-1409, 1985-2032, 2684-67. Rather than consider the totality of the circumstances, Plaintiffs ignore any evidence that undermines the claimed existence of the Factors. For example, in their analysis of alleged discriminatory practices and lack of responsiveness to minorities (Senate Factors 1, 3, and 8), Plaintiffs fail to consider (1) positive trends in minority voting, (2) the consideration of minority concerns by the Arizona Independent Redistricting Commission ("AIRC"), (3) the Citizens Clean Elections Commission's funding of candidates to create a more diverse slate, (4) Medicaid expansion, and (5) increased public school funding. *See* ER1390-91, 1407-09, 1958, 1976-78, ER1996-97, 2009-11, 2028. On racially polarized voting (Factor 2), Plaintiffs rely on a *draft* AIRC report that did not assess *statewide* results or any election not involving a Hispanic candidate. *See* ER1395-99, 3017-24; *see also Johnson v. Mortham*, 926 F. Supp. 1460, 1474-75 (N.D. Fla. 1996) (rejecting polarization analysis with similar defects). In assessing the number of elected minorities (Factor 7), Plaintiffs ignore county and municipal elections where minority candidates have been highly successful. *See* ER1972-75.

Also, the district court properly recognized that H.B. 2023 furthers the legitimate and non-tenuous goals (Factor 9) of preventing fraud and promoting public confidence in election integrity. *See* ER19-21. The district court did not “blindly credit[]” these interests, as Plaintiffs argue, but instead explained that “absentee voting presents a greater opportunity for fraud.” ER20 (citing numerous cases); *see also* ER2167 (criminal indictment describing tampering with voted absentee ballots by New Jersey ballot collectors). Plaintiffs do not dispute this conclusion. Given the greater potential for early voting fraud, “[o]utlawing criminal activity before it occurs is not only a wise deterrent, but also sound public policy.” ER21 (citing *Lee v. Virginia State Bd. of Elections*, -- F. Supp. 3d --, No. 3:15CV357-HEH, 2016 WL 2946181, at *26 (E.D. Va. May 19, 2016)).

b. The District Court Properly Found that H.B. 2023 Violates Neither the Fourteenth Nor the First Amendment.

The constitutional standard is not one of convenience—the law must actually burden the right to vote to violate the Fourteenth Amendment. *See Ohio Democratic Party*, 2016 WL 4437605, at *6 (concluding that “a withdrawal or contraction of just one of many conveniences that have generously facilitated voting participation” is not a “true burden” on the right to vote). Nor does elimination of this convenience prevent Plaintiffs from engaging in all of the expressive and associational activities that they conducted before H.B. 2023. The evidence that Plaintiffs presented below—the same evidence on which they rely

here—simply does not support a finding that H.B. 2023 meaningfully burdens the right to vote. The district court properly concluded that Plaintiffs were unlikely to succeed on the merits of their First and Fourteenth Amendment claims. ER0021, 23. Nothing that they have argued here demonstrates a need for the extraordinary relief of an injunction pending appeal—which, because early voting commences in less than a week, would have precisely the same effect as the preliminary injunction that the district court denied.

1. Plaintiffs Offer No Evidence that H.B. 2023 Burdens Voters; the State’s Important Regulatory Interests Support Its Constitutionality.

As the district court recognized—to decide Plaintiffs’ claim that H.B. 2023 burdens the Fourteenth Amendment right to equal protection—the Court must “weigh the nature and magnitude of the burden imposed by the law against the state’s interests in and justifications for it.” ER0015 (citing *Nader v. Brewer*, 531 F.3d 1028, 1034 (9th Cir. 2008) (describing the *Anderson-Burdick* test)). The extent of the burden on the asserted rights determines the level of scrutiny. Where the burden is not severe, courts “apply less exacting review, and a State’s important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions.” *Dudum v. Arntz*, 640 F.3d 1098, 1106 (9th Cir. 2011) (internal quotation marks omitted).

Plaintiffs have not shown that H.B. 2023 severely burdens the right to vote. *See Qualkinbush v. Skubisz*, 826 N.E.2d 1181, 1199 (Ill. App. 2005) (holding that the burden from a law limiting return of absentee ballots “is slight and is nondiscriminatory”). Indeed, even after the Primary Election and as the district court noted, Plaintiffs have not identified a single voter whose ability to vote was burdened by H.B. 2023. ER2819. In fact, their witnesses testified that they did not know of anyone who would not be able to return an early ballot.⁷

Moreover, Plaintiffs have not shown that H.B. 2023 burdens voters’ ability to vote in person on Election Day or at an early voting site, to vote by mail, to vote by a special election board, or by giving their ballot to a family member, household member, caregiver, or election worker. Plaintiffs argue that these alternatives to ballot collection are more burdensome and that learning about these alternatives shortly before an election is itself a burden. (Doc. 16, at 14). Surely, voters do not need to learn that they can vote at a polling place near their home on Election Day, and Plaintiffs are well-positioned to inform voters of the other methods of voting.

⁷ *See* ER2811-12, at 40:25-41:3 (“I have no way of knowing if and how many voters could be impacted by [the ADP’s] inability to mail their ballot for them.”); ER3097, at 92:5. Despite Plaintiffs’ counsel’s statement during ADP Executive Director Healy’s deposition that she was testifying in her personal capacity, Healy submitted a declaration in her official capacity as ADP Executive Director that described at length the ADP’s activities and knowledge, and her response noted above was a response to questions about the activities described in her declaration. *See* ER0293-304, at ¶¶ 2, 20; ER2811-12, at 40:23-41:2; *see also* ER2808-11, at 37:19-40:22.

Indeed, Plaintiffs' claims about these harms are purely speculative, as they have not identified a single voter who will incur a substantial obstacle to voting in November due to H.B. 2023. In addition, counties may still count a ballot even if it is returned in violation of H.B. 2023. *Compare* Cal. Elec. Code § 3017(d) (mandating that ballots returned by an unauthorized person not be counted).⁸

In sum, H.B. 2023 removes one convenience from voters who had previously been targeted by ballot collectors.⁹ *See Ohio Democratic Party*, 2016 WL 4437605, at *6. In contrast, courts have considered far more extensive restrictions to be only minimal burdens. For example, this Court concluded that Arizona's requirement of documentary evidence of citizenship in order to register to vote is not a severe burden, even though a person without such evidence cannot register to vote in state elections. *See Gonzalez v. Arizona*, 485 F.3d 1041, 1049 (9th Cir. 2007). The Supreme Court has held that voter ID requirements impose only a minimal burden, even when they require gathering records and traveling to government offices to obtain identification. *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 198 (2008) (stating that the steps necessary to obtain a photo

⁸ Nevada and California have similar ballot collection prohibitions to H.B. 2023. Nev. Rev. Stat. §§ 293.330, 293.316; Calif. Elec. Code §§ 3017, 3021, and 18403. This Court should maintain the existing briefing schedule to give the other states in the Circuit with similar laws the opportunity to provide their perspectives.

⁹ Notably, the "burden" imposed by H.B. 2023 is only new for those who were targeted by ballot collectors in the past. Most Arizonans who vote early have delivered their ballots to elections officials without ballot collection for years.

identification card, including travel to a government office, “surely do[] not qualify as a substantial burden on the right to vote”).

Plaintiffs complain that the district court incorrectly applied rational basis review to their Fourteenth Amendment claim. (Doc. 16, at 17). But the district court specifically determined that “[b]ecause H.B. 2023 imposes only minimal burdens, Arizona must show only that it serves important regulatory interests.” ER0019 (citing *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 452 (2008)). Thus, the district court did not shift the burden to the Plaintiffs to demonstrate that there was no rational basis for H.B. 2023. And it relied on state interests that the Supreme Court has repeatedly recognized as the type of important regulatory interests that justify the minimal burden that H.B. 2023 may impose on voters. *See Crawford*, 553 U.S. at 195 (combating election fraud); *Purcell*, 549 U.S. at 4 (preserving public confidence in the electoral process).

2. Ballot Collection Is Not Expressive Activity.

With no new evidence, Plaintiffs reiterate their argument that H.B. 2023 burdens their associational rights. (Doc. 16, at 15). The *Anderson-Burdick* test applies to this claim as well. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). Plaintiffs assert that the district court “undervalu[ed] the expressive significance of participation in, and the assistance of others in participating in, the political process.” (Doc. 16, at 15). In fact, the district court

properly disentangled Plaintiffs’ expressive and associational conduct from the ministerial act of delivering ballots. ER0022 (citing *Voting for Am. v. Steen*, 732 F.3d 382, 389, 392 (5th Cir. 2013)). As Plaintiffs’ witnesses acknowledged, H.B. 2023 does not limit their expressive activity. ER2813-17, at 99:19-103:13; ER3098-102, at 123:14-127:12. It will not prevent them from engaging with voters to discuss candidates and issues, to inform them about the process of voting early or on election day, and to encourage them to vote. *Id.* The only thing that H.B. 2023 will prevent Plaintiffs from doing is collecting voters’ voted ballots. Like the voter registration laws at issue in *Voting for America*, H.B. 2023 “do[es] not in any way restrict or regulate any communicative conduct. [It] merely regulate[s] the receipt and delivery of completed [ballots], two non-expressive activities.” 732 F.3d at 391 (footnotes omitted).¹⁰

Even if the Court were to conclude that ballot collection is inextricably intertwined with Plaintiffs’ associational and speech-related activities, H.B. 2023 does not severely burden those activities. Plaintiffs are not seriously limited in their ability to engage with voters and encourage them to vote for the candidates that

¹⁰ Plaintiffs argued to the district court that cases analyzing restrictions on voter registration provided appropriate guidance. ER0186 (citing *Project Vote v. Blackwell*, 455 F. Supp. 2d 694 (N.D. Ohio 2006)). But now they try to distinguish *Voting for America*, a voter registration case, because it involved a law that regulated more things than H.B. 2023 does. (*See* Doc. 16, at 15-16 n.10). The careful analysis of the First Amendment issues in *Voting for America* provides useful guidance, and it should not be ignored because it does not favor Plaintiffs.

Plaintiffs support. As the burden on Plaintiffs' First Amendment rights is not severe, the State's interests in deterring fraud related to early ballots are more than enough to justify H.B. 2023 and the district court properly concluded that Plaintiffs are not likely to succeed on their First Amendment claim. *See* ER0023.

c. No Irreparable Harm Will Arise Absent an Injunction.

Plaintiffs assert that H.B. 2023 will cause them and “thousands of other Arizona voters” to be irreparably harmed by restricting their “fundamental right to vote.” (Doc. 16, at 1). Plaintiffs, however, have not identified a single Arizona voter facing a serious restriction on his or her right to vote due to H.B. 2023. Instead, Plaintiffs point to the thousands of ballots that they and other groups have collected in previous elections, and asserting that voters “rely” on ballot collection, thus H.B. 2023 “bans them from voting by their preferred method.” (*Id.* at 2-3). Past use of a convenient method of delivering an early ballot to the county recorder, however, does not prove reliance, and as the district court correctly recognized, H.B. 2023 “does not eliminate or restrict any method of voting.” ER0016.

Early voting for the August 30, 2016, Primary Election began on August 3, 2016, and H.B. 2023 became effective on August 6, 2016. Nearly a million Arizonans cast ballots in the Primary Election, yet Plaintiffs have not located a single person who was unable to vote or was severely burdened in his or her ability

to vote by H.B. 2023. Nor is there any evidence that H.B. 2023 was used to intimidate or harass voters. (Ex. C, ¶¶ 4-8, ER3157-59). If no irreparable harm existed in the Primary Election, it follows that continued enforcement of this voting regulation will not cause irreparable harm in the General Election.

d. The District Court Properly Found that Neither the Balance of Hardships Nor the Public Interest Favors Plaintiffs.

Plaintiffs assert that the district court erred when it did not consider whether they had raised “serious questions on the merits and [whether] the balance of hardships tips in their favor.” (Doc. 16, at 18). Because Plaintiffs have presented no evidence of any voter who will be harmed by H.B. 2023, they have established neither a serious question about the merits nor that the balance of hardships tips sharply in their favor. Moreover, “‘serious questions going to the merits’ and a hardship balance that tips sharply towards the plaintiff can support issuance of a preliminary injunction, *so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest.*” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011) (emphasis added) (describing the continued validity of the “serious questions” test after *Winter v. Nat. Res. Def. Council, Inc.* 555 U.S. 7 (2008)). Because Plaintiffs have failed to make a showing on any of the prongs of the *Winter* test, they are not entitled to an injunction pending appeal.

Plaintiffs seek an injunction against an election law, and the “State indisputably has a compelling interest in preserving the integrity of its election process.” *See Purcell*, 549 U.S. at 4; *Crawford*, 553 U.S. at 203. The Ninth Circuit has therefore held that the “law recognizes that election cases are different from ordinary injunction cases,” because “hardship falls not only upon the putative defendant, the [Arizona] Secretary of State, but on all the citizens of [Arizona].” *Sw. Voter Registration*, 344 F.3d at 919. “Given the deep public interest in honest and fair elections and the numerous available options for the interested parties to continue to vigorously participate in the election, the balance of interests falls resoundingly in favor of the public interest.” *Lair v. Bullock*, 697 F.3d 1200, 1215 (9th Cir. 2012). Here, the public interest and balance of equities tip strongly in the State’s favor. *Maryland v. King*, 133 S. Ct. 1, 3 (2012) (“[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.”)

IV. CONCLUSION

As the court below has twice now properly found, there is no reason to enjoin the effectiveness of the law embodied in H.B. 2023. And Plaintiffs’ own delay evinces the lack of emergency—or even any urgency at all—here. Defendants respectfully request that Plaintiffs’ Motion be denied in all respects.

RESPECTFULLY SUBMITTED this 7th day of October, 2016

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CERTIFICATE OF COMPLIANCE

I certify that this Response complies with the length limits permitted by Ninth Circuit Rule 27(d)(2). The Response is 20 pages, excluding the portions exempted by Fed. R. App. P. 32(a)(7)(B)(iii), if applicable, and is filed by (1) separately represented parties. The Response's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

s/ Brett W. Johnson

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 October 7, 2016. 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/ Brett W. Johnson

EXHIBIT A

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11
 12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF ARIZONA**

15	Leslie Feldman, et al.,)	Case No. CV-16-01065-PHX-DLR
16)	
17	Plaintiffs,	)	STATE DEFENDANTS' RESPONSE
18	v.	)	TO PLAINTIFFS' MOTION FOR
19	Arizona Secretary of State's Office, et al.,	)	PRELIMINARY INJUNCTION OF
20		)	HB2023
21	Defendants.)	
22)	

23 Secretary of State Michele Reagan and Attorney General Mark Brnovich request
 24 that this Court deny Plaintiffs' Motion for a Preliminary Injunction of HB2023 because
 25 Plaintiffs have failed to demonstrate the need for this extraordinary relief. Although the
 26 Secretary and the Attorney General are named as Defendants on different claims, they
 27 agree that Plaintiffs have not shown a likelihood of success or an irreparable harm on the
 28 Section 2 claim or any of the constitutional claims. Plaintiffs have not shown the

1 discriminatory impact or severe burden necessary to succeed on their claims, relying on
2 speculation rather than demonstrable harm. And Plaintiffs ignore Arizona’s compelling
3 interest in ensuring the integrity of elections and refuse to acknowledge the reasonable
4 steps taken in HB2023 to ensure the integrity of the early voting process—a process that
5 has played an ever-increasing role in Arizona’s elections. Plaintiffs’ pre-enforcement
6 request for a preliminary injunction against HB2023 must therefore be denied.

7 **I. Background**

8 For many years, Arizona has been a leader among the states in increasing both the
9 opportunity to vote and the convenience of voting for all registered voters. Ex. 1, ¶¶ 4-
10 19; Ex. 2.¹ In addition to voting at polling places on Election Day, the State permits early
11 voting during the 27 days before an election. A.R.S. § 16-542; Ex. 1, ¶¶ 4-8; Ex. 3, ¶¶ 7-
12 8, 10-11. Early voting may be done in person or by mail. Ex. 1, ¶¶ 5, 15. The State also
13 has a Permanent Early Voting List (“PEVL”). A.R.S. § 16-544. PEVL voters receive a
14 mail-in ballot for every election in which they are entitled to vote without needing to
15 request an early ballot for each election. *Id.* The county recorders accept early ballots
16 delivered by mail up until 7:00 pm on Election Day. A.R.S. § 16-548(A); Ex. 3, ¶ 11.

17 For voters who prefer to vote in person, many counties operate multiple in-person
18 early voting sites, some of which are open on Saturdays. Ex. 1, ¶¶ 16-17; Ex. 3 ¶ 10;
19 Ex. 4. If a voter received an early ballot by mail, but did not mail the ballot back to the
20 county recorder in time to be received by 7:00 pm on Election Day, the voter may drop
21 the sealed ballot at any polling place or the county recorder’s office while the polls are
22 open. A.R.S. § 16-548(A); Ex. 1, ¶ 16; Ex. 3, ¶ 11.

23 In 2016, Arizona enacted HB2023 to regulate the collection of early ballots. The
24 Arizona Legislature considered HB2023 in the normal course of its legislative process.
25 Ex. 5. It was introduced at the beginning of the legislative session and assigned to

26
27 ¹ All references to numbered exhibits are to the exhibits attached to the Declaration of
28 Karen J. Hartman-Tellez, submitted herewith.

1 committee. *Id.* Numerous times throughout the debates on HB2023, legislators stated
2 that the bill was directed to the integrity of the elections process. *See* Ex. 6, at 9:11-10:5;
3 28:22-30:2; 35:9-36:8; 73:11-21. After robust legislative debate, the bill passed and the
4 Governor signed it. Ex. 5.

5 HB2023 does not limit any of the foregoing means of voting. It only limits who
6 may return a ballot. HB2023 allows any member of a voter's family or household to
7 return an early ballot for the voter. Ex. 7. In addition, voters may give their ballots to
8 their caregiver or to an election worker performing official duties. *Id.* If the voter cannot
9 go to the polls because of an illness or disability, the voter can request a special election
10 board to facilitate voting. A.R.S. § 16-549; Ex 1, ¶ 18; Ex. 3, ¶ 12.

11 **II. Legal Standard**

12 A preliminary injunction is “an extraordinary remedy that may only be awarded
13 upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def.*
14 *Council, Inc.*, 555 U.S. 7, 22 (2008). In order to justify such extraordinary relief, a
15 plaintiff must show “(1) she is likely to succeed on the merits, (2) she is likely to suffer
16 irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in
17 her favor, and (4) an injunction is in the public interest.” *Farris v. Seabrook*, 677 F.3d
18 858, 864 (9th Cir. 2012). “[T]he less certain the district court is of the likelihood of
19 success on the merits, the more plaintiffs must convince the district court that the public
20 interest and balance of hardships tip in their favor.” *Sw. Voter Registration Educ. Project*
21 *v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003). Plaintiffs bear a heavy burden in
22 attempting to show they are entitled to injunctive relief. *Ctr. for Competitive Politics v.*
23 *Harris*, 784 F.3d 1307, 1312 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 480 (2015).

24 **III. Plaintiffs Have Not Shown a Likelihood of Success on the Merits.**

25 **A. Plaintiffs Have Not Carried the Burden on Their Section 2 Claim.**

26 Plaintiffs' Section 2 claim relies on misperceptions of the legal standard and
27
28

1 misinterpretation of the relevant facts.² If Plaintiffs were to succeed here, it would
 2 effectively permit Plaintiffs to invalidate any voting procedure or practice in Arizona that
 3 they chose to challenge. Viewed under the appropriate legal standard, Plaintiffs have not
 4 met their burden to show a likelihood of success on their Section 2 claim.

5 **1. Plaintiffs Misconstrue the Applicable Standard for Section 2.**

6 Section 2 prohibits voting practices and procedures “which result[] in a denial or
 7 abridgement of the right of any citizen of the United States to vote on account of race or
 8 color.” 52 U.S.C. § 10301(a). A violation of Section 2 therefore requires a showing that
 9 members of a group protected by Section 2 “have less opportunity than other members of
 10 the electorate to participate in the political process and to elect representatives of their
 11 choice.” 52 U.S.C. § 10301(b). Where, as here, Plaintiffs allege vote denial under
 12 Section 2, “proof of causal connection between the challenged voting practice and a
 13 prohibited discriminatory result is crucial.” *Gonzalez v. Arizona*, 677 F.3d 383, 405 (9th
 14 Cir. 2012) (en banc) (“*Gonzalez II*”) (internal quotation marks omitted). Put another
 15 way, “[t]o prove a § 2 violation, [Plaintiffs have] to establish that this requirement, as
 16 applied to Latinos, caused a prohibited discriminatory result.” *Id.* at 407.

17 There are thus two requirements: a discriminatory impact and a causal
 18 connection. *League of Women Voters of N.C. v. N. Carolina*, 769 F.3d 224, 240 (4th Cir.
 19 2014), *cert. denied*, 135 S. Ct. 1735 (2015). Plaintiffs rely on factors from the Senate
 20 Report to the 1982 VRA amendments, Doc. 85, at 8-10, but the Senate factors by
 21 themselves do not show a Section 2 violation. Even in a traditional Section 2 claim,
 22
 23

24
 25 ² The Secretary also notes that Plaintiffs named incorrect defendants for their Section 2
 26 claim. “It is well-established that . . . the causation element of standing requires the
 27 named defendants to possess authority to enforce the complained-of provision.” *Bronson*
 28 *v. Swensen*, 500 F.3d 1099, 1110 (10th Cir. 2007). Plaintiffs challenge HB2023, but the
 only method for enforcing HB2023 is through a criminal proceeding. *See* Ex. 7. The
 Secretary does not enforce criminal laws. *See generally* A.R.S. § 41-121; Title 16.

1 plaintiffs had to make a threshold showing before moving on to the Senate factors.³ *See*,
2 *e.g.*, *Old Person v. Brown*, 312 F.3d 1036, 1040-41 (9th Cir. 2002).

3 And, as Section 2(b) makes clear, the Court must assess the opportunity provided
4 to vote—not whether individuals chose to use the opportunity provided. *See Frank*, 768
5 F.3d at 753. “The question is not whether the voting law could be made more
6 convenient—they virtually always can be. Rather, the question is whether the electoral
7 system as applied treats protected classes the same as everyone else, determined by the
8 totality of the circumstances.” *McCrary*, 2016 WL 1650774, at *117.

9 **2. Plaintiffs Have Not Shown a Discriminatory Impact.**

10 Plaintiffs have not shown that the limitations on ballot collection in HB2023 will
11 have a discriminatory impact. “[T]he challenged device must be shown actually to
12 impair the ability of minority voters to elect representatives of their choice.” *Badillo v.*
13 *City of Stockton*, 956 F.2d 884, 890 (9th Cir. 1992). Where the “plaintiffs did not
14 establish that the [challenged law] resulted in plaintiffs having less opportunity to elect
15 legislators of their choice,” the claim must fail. *Id.* at 891 (internal quotation marks
16 omitted); *see also Chisom v. Roemer*, 501 U.S. 380, 397-98 (1991) (holding that a
17 Section 2 claim must show “an abridgment of the opportunity to participate in the
18 political process and to elect representatives of one’s choice”).

19 Here, Plaintiffs have not offered any probative evidence of discriminatory impact.
20 Plaintiffs have not alleged that HB2023 will have a statistically significant effect on
21 minority voters’ opportunity to participate in the political process and elect
22 representatives of their choice. Plaintiffs refer to “thousands” of ballots being collected

23
24 ³ The Plaintiffs also ignore key differences between the claims contemplated in
25 *Thornburg v. Gingles*, 478 U.S. 30 (1986), and their claim. District drawing was the
26 primary concern in *Gingles*. *See League of Women Voters*, 769 F.3d at 239. While
27 Section 2 sweeps more broadly than district drawing, courts must be cautious in applying
28 the Senate Factors to other contexts. *See, e.g., N.C. State Conference of the NAACP v.*
McCrary, 1:13CV658, 2016 WL 1650774, at *75 (M.D.N.C. Apr. 25, 2016); *see also*
Frank v. Walker, 768 F.3d 744, 754 (7th Cir. 2014), *cert. denied*, 135 S. Ct. 1551 (2015).

1 from minority voters, yet they acknowledge that more than 1.3 million voters requested
2 early ballots in Maricopa County alone in 2012. Doc. 85, at 1-2. As one of Plaintiffs'
3 declarants admitted, she has "no way of knowing" how many voters, if any, HB2023 will
4 impact. Ex. 8, at 40:25-41:2. Given that Plaintiffs and their declarants acknowledge that
5 ballot collection may facilitate voting for all voters, not just minority voters, they have
6 not shown a discriminatory impact. See Doc. 85, at 3 ("Ballot collection has guarded
7 against the disenfranchisement of voters who do not or cannot mail their ballot in time,
8 whatever the reason."); Doc. 86, ¶ 17 (stating that "groups from all ideological
9 backgrounds use ballot collection"); see also Doc. 87, ¶ 8 (stating that burden falls
10 "particularly on those that are elderly and homebound"); Doc. 89, ¶¶ 4, 8-9 (stating that
11 AFL-CIO collects from "members of all political persuasions"). Plaintiffs have not
12 identified any individual, much less an identifiable group, whose opportunity to
13 participate in the political process and elect representatives of their choice will be
14 demonstrably diminished.⁴ Plaintiffs thus fail at the first step. See *Frank*, 768 F.3d at
15 755 (holding that the plaintiffs "fail[ed] at the first step, because in Wisconsin everyone
16 has the same opportunity to get a qualifying photo ID").

17 Plaintiffs also ignore the many opportunities that Arizona provides its voters to
18 cast their ballots. HB2023 does not limit these opportunities in any meaningful way. In
19 fact, it does not prohibit any method of actually casting a ballot. Plaintiffs instead assert
20 that HB2023 has a discriminatory impact because it makes it more difficult for some
21 voters to take advantage of private individuals' offer to help them vote. To show this
22 kind of discriminatory impact, Plaintiffs should at least identify the speculative
23 population of those minority voters who (1) do not vote in person, (2) do not take
24 advantage of early in-person voting, (3) do not mail in their ballot or drop it off at the
25 polling location, (4) do not give their ballot to a family member, household member,

26
27 ⁴ For example, Plaintiffs rely heavily on Rep. Fernandez's assertions about the voters in
28 her district. Doc. 85, at 3, 5, 8-9. But both Democrats running for state representative in
her district are Hispanic, and the only Republican running is a write-in. Ex. 9.

1 caregiver, or election worker, and (5) do not use the special election board procedure.
2 Therefore, “on the basis of the evidence in the record it is not possible to quantify . . . the
3 magnitude of the burden on this narrow class of voters.” *Crawford v. Marion Cty.*
4 *Election Bd.*, 553 U.S. 181, 200 (2008) (addressing a constitutional claim); *see also*
5 *Frank*, 768 F.3d at 753; *Lee v. Va. State Bd. of Elections*, No. 3:15CV357-HEH, 2016
6 WL 2946181, at * 24 (May 19, 2016).

7 **3. Plaintiffs Have Not Shown a Causal Connection.**

8 Even if Plaintiffs had shown a discriminatory impact, they must still show that
9 HB2023 “interacts with social and historical conditions to cause an inequality in the
10 opportunities enjoyed by black and white voters to elect their preferred representatives.”
11 *Gingles*, 478 U.S. at 47; *see also Ortiz v. City of Phila. Office of City Comm’rs Voter*
12 *Registration Div.*, 28 F.3d 306, 316 (3d Cir. 1994) (rejecting reliance on societal factors
13 where “the record reveals no link between the societal conditions and factors . . . and the
14 electoral practice”); *McCrory*, 2016 WL 1650774, at *83 (holding that the history of
15 discrimination factor, for example, must be connected to the challenged practice).

16 Here, Plaintiffs do not connect their analysis of the Senate factors to HB2023. For
17 example, Plaintiffs offer a conclusory quotation from *Gingles* with regard to
18 discriminatory voting practices and procedures. Doc. 85, at 9-10. Similarly, Plaintiffs
19 assert that Arizona “has a demonstrated history of racially polarized voting” without any
20 attempt to tie the assertion to HB2023. *Id.* at 10. For other factors, Plaintiffs attempt to
21 show a link to HB2023 that is so tenuous that the same logic could be applied to literally
22 any electoral practice. *See, e.g., id.* at 9 (arguing that Senate factor 4 is satisfied because
23 “disparities make participation in Arizona’s elections more burdensome”). These
24 generalizations do not establish that HB2023 interacts with evidence of any of the Senate
25 factors. *See Frank*, 768 F.3d at 754 (rejecting interpretation of Section 2 that would
26 “sweep[] away almost all registration and voting rules”).

27 Plaintiffs also misinterpret many factors and rely on flawed evidence. Plaintiffs
28 rely on distant history to prove official discrimination in voting related practices, but fail

1 to show a present-day impact.⁵ Plaintiffs emphasize Arizona’s coverage under Section 5
2 and 2004’s Proposition 200, but in forty years of Section 5 coverage,⁶ the only
3 unwithdrawn DOJ objections to statewide practices were to redistricting plans. Ex. 12;
4 Ex. 10, at 149:14-22, 154:12-20; Ex. 11, at 46:12-21, 50:24-51:15, 52:5-14. The DOJ
5 approved the current redistricting plan on the first submission, and the redistricting
6 process “put a priority on compliance with the Voting Rights Act and, in particular, on
7 obtaining preclearance on the first attempt.” *Harris v. Ariz. Indep. Redistricting*
8 *Comm’n*, 993 F. Supp. 2d 1042, 1055 (D. Ariz. 2014), *aff’d*, 136 S. Ct. 1301 (2016). The
9 DOJ also precleared Proposition 200’s registration and voter ID requirements, and the
10 Ninth Circuit rejected a Section 2 claim against the proposition.⁷ Ex. 13; Ex. 10, at
11 160:6-10, 162:2-9; Ex. 11, at 30:11-14, 32:6:16; *Gonzalez II*, 677 F.3d at 407.

12 Errors infect Plaintiffs’ articulation of the other factors as well. They provide
13 arbitrary selections from limited races to demonstrate racially polarized voting, citing (1)
14 exit polls only from elections where the margin of victory was narrow, and (2) draft
15 analysis of proposed majority-minority districts from the 2011 redistricting process. Ex.
16 10, at 186:1-188:11, 189:22-192:5, 195:15-196:10. This falls far short of the standard
17 required to prove racially polarized voting. *See, e.g., Ala. Legislative Black Caucus v.*
18 *Alabama*, 989 F. Supp. 2d 1227, 1270 (M.D. Ala. 2013), *vacated and remanded on other*
19 *grounds*, 135 S. Ct. 1257 (2015) (holding that “Lichtman did not conduct any statistical
20 analysis to determine whether factors other than race were responsible for the voting
21 patterns”); *see also Johnson v. Mortham*, 926 F. Supp. 1460, 1474-75 (rejecting Dr.
22 Lichtman’s racial polarization analysis).

23 ⁵ Plaintiffs’ experts also cite a variety of other allegedly discriminatory policies, but
24 admitted that they did not assess how they affected political participation. *See, e.g.,* Ex.
25 10, at 167:15-168:1, 168:5-169:6, 170:18-172:21; Ex. 11, at 23:2-25, 57:9-23, 58:461:9.

26 ⁶ The Supreme Court has made clear that “[t]he inquiries under §§ 2 and 5 are different.”
Bartlett v. Strickland, 556 U.S. 1, 24 (2009)

27 ⁷ Plaintiffs other allegations of official discrimination suffer similar flaws. Ex. 10, at
28 157:1-6, 158:15-160:2, 162:2-9, 163:4-165:6, 166:20-170:17; Ex. 11, at 36:12-22, 40:6-
10, 42:16-19.

1 Plaintiffs' evidence of discriminatory voting practices under Senate factor 3,
2 meanwhile, ignores *Gonzalez II*'s determination that those laws do not violate Section 2
3 and bizarrely relies on the size of Arizona's congressional and legislative districts when
4 the size of the congressional districts is mandated by federal law and one person, one
5 vote.⁸ Ex. 10, at 197:12-199:1. And Plaintiffs suggest that data on wait times at polling
6 places for fifteen minority voters across two election cycles shows a discriminatory
7 voting policy, but Plaintiffs cannot identify a policy that caused the wait, the polling
8 places they waited at, or the distribution of the voters across polling places.⁹ Ex. 10, at
9 202:4-204:13.

10 Plaintiffs also argue that the comments of a private citizen in a hearing about
11 HB2023 constitute a racial appeal under Senate factor 6, which looks instead to racial
12 appeals in political campaigns.¹⁰ *Gingles*, 478 U.S. at 37. Plaintiffs argue that Senate
13 factor 7 is present even where their expert concedes rough minority proportionality in the
14 state house and significant representation in the state senate.¹¹ Ex. 10 at 221:21-222:9;
15 Doc. 101-4, at 44-45; *see also McCrory*, 2016 WL 1650774 (finding this factor was at
16 best only minimally present where there was rough proportionality in the Legislature).
17 For Senate factor 8, meanwhile, Plaintiffs rely on HB2023's legislative history, but the

18 ⁸ Plaintiffs also suggest that an error in the circulation of the publicity pamphlet for the
19 May 2016 special election and the lack of a recent revision to the Election Procedures
20 Manual were discriminatory voting practices. Doc. 85, at 10. But Plaintiffs' expert
21 conceded these were isolated events, Ex. 10, at 207:3-208:21, and there is no evidence of
22 a discriminatory intent or impact for either.

23 ⁹ Plaintiffs' expert reports are so seriously flawed that the flaws cannot be fully detailed
24 within the page constraints of this Response. The Secretary and the Attorney General
25 therefore incorporate by reference the expert reports submitted in support of the
26 Intervenor-Defendants' Response.

27 ¹⁰ To the extent that Plaintiffs' expert suggests the presence of other racial appeals, "[t]he
28 evidence that was presented was often disconnected from actual campaigning," and it did
not "meaningfully interact with" HB2023. *See McCrory*, 2016 WL 1650774, at *94.

¹¹ Plaintiffs also ignore the large number of Hispanic county and local elected officials,
and they make much of the fact that Arizona has had one Hispanic Governor—despite the
fact that only three other states have elected Hispanic governors since 1917. Ex. 10, at
224:3-225:7; Ex. 14, at 6; Ex. 15.

1 Legislature’s disagreement with Plaintiffs’ policy is insufficient to show
2 unresponsiveness. *See McCrory*, 2016 WL 1650774, at *96; *see also* Ex. 10 at 227:8-
3 228:18. Finally, Plaintiffs incorrectly assert that the policy underlying HB2023 is
4 tenuous where other states employ similar policies,¹² and the Supreme Court has
5 recognized that states have a legitimate interest in combating the perception of fraud.
6 *Crawford*, 553 U.S. at 196 (“While the most effective method of preventing election
7 fraud may well be debatable, the propriety of doing so is perfectly clear.”). Plaintiffs’
8 analysis of the Senate factors thus falls far short of showing the necessary causal link
9 between HB2023 and a discriminatory impact.

10 Plaintiffs’ claim is akin to the claim rejected in *Gonzalez II*. There, the Ninth
11 Circuit rejected the claim, despite the presence of some Senate factors, because Plaintiffs
12 “adduced no evidence that Latinos’ ability or inability to obtain or possess identification
13 for voting purposes (whether or not interacting with the history of discrimination and
14 racially polarized voting) resulted in Latinos having less opportunity to participate in the
15 political process and to elect representatives of their choice.” 677 F.3d at 407. Plaintiffs
16 similarly do not show how a reduction in the availability of ballot collection will leave
17 minority voters with less opportunity to participate and elect representatives of their
18 choice. Without that evidence, Plaintiffs’ Section 2 claim must fail.

19 **B. Plaintiffs Are Not Likely to Succeed on the Merits of Their**
20 **Constitutional Claims.**

21 Plaintiffs have not shown that HB2023 is unconstitutional. Plaintiffs have brought
22 a “disfavored” facial challenge. *See Wash. State Grange v. Wash. State Republican*
23 *Party*, 552 U.S. 442, 450 (2008). As in *Washington State Grange*, “[t]he State has had no
24 opportunity to implement [HB2023], and its courts have had no occasion to construe the
25 law in the context of actual disputes arising from the electoral context.” 552 U.S. at 450.
26 Plaintiffs thus must show that “no set of circumstances exists under which the Act would

27
28 ¹² *See, e.g.*, Cal. Elec. Code §§ 3017, 18403; N.M. Stat. Ann. §§ 1-6-9, 1-6-10.1, 1-20-7.

1 be valid.” *United States v. Salerno*, 481 U.S. 739, 745 (1987).

2 **1. Plaintiffs Have Not Shown HB2023 Violates the Fourteenth**
3 **Amendment.**

4 A claim that a state election law burdens the Fourteenth Amendment right to equal
5 protection must be analyzed under the “flexible standard” set forth in *Burdick v. Takushi*,
6 504 U.S. 428, 434 (1992). The *Burdick* standard requires courts to “weigh the character
7 and magnitude of the asserted injury to the rights protected by the . . . Fourteenth
8 Amendment[] against the precise interests put forward by the State as justifications for
9 the burden imposed by its rule.” *Nader v. Cronin*, 620 F.3d 1214, 1217 (9th Cir. 2010)
10 (per curiam) (internal quotation marks omitted). The extent of the burden on the asserted
11 rights determines the level of scrutiny. Where the burden is not severe, courts “apply less
12 exacting review, and a State’s important regulatory interests will usually be enough to
13 justify reasonable, nondiscriminatory restrictions.” *Dudum v. Arntz*, 640 F.3d 1098, 1106
14 (9th Cir. 2011) (internal quotation marks omitted); *Ariz. Libertarian Party v. Reagan*,
15 798 F.3d 723, 732 (9th Cir. 2015) (applying rational basis review when there was a *de*
16 *minimis* burden on the asserted rights).

17 Under *Burdick*, Plaintiffs must show a severe burden on an identified right, and
18 they must offer specific evidence to demonstrate the severity of the burden. *See id.* at
19 731. Here, Plaintiffs have not done either. Plaintiffs have not shown that the right to
20 vote is severely burdened. *See Qualkinbush v. Skubisz*, 826 N.E.2d 1181, 1199 (Ill. Ct.
21 App. 2005) (holding that the burden from a law limiting the return of absentee ballots
22 more strictly than HB2023 “is slight and is nondiscriminatory”). And Plaintiffs have not
23 identified a single voter whose ability to vote will be burdened by HB2023. *See* Ex. 8, at
24 40:25-41:3 (“I have no way of knowing if and how many voters could be impacted by
25 [the Arizona Democratic Party’s] inability to mail their ballot for them.”); Ex. 16, at 92:5
26 (“All voters can mail in their ballot.”). Plaintiffs do not show that HB2023 burdens
27 voters’ ability to vote in person on Election Day or at an early voting site, vote by mail,
28 vote by a special election board, or by giving their ballot to a family member, household

1 member, caregiver, or election worker.¹³ Moreover, counties may still count a ballot
2 even if it is returned in violation of HB2023. *See* Ex. 7; *compare* Cal. Elecs. Code
3 § 3017(d) (mandating that ballots returned by an unauthorized person not be counted).

4 In view of the minimal burden (if any) that HB 2023 imposes, Plaintiffs must
5 show that HB2023 has no rational basis. *Ariz. Libertarian Party*, 798 F.3d at 732. This
6 Court “may look to any conceivable interest promoted by the challenged procedures.”
7 *Libertarian Party of Wash. v. Munro*, 31 F.3d 759, 763 (9th Cir. 1994).

8 The State need not “show specific local evidence of fraud in order to justify
9 preventive measures,” *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 394 (5th Cir. 2013).
10 There are real risks associated with voting by mail-in ballot. It is widely recognized that
11 “[v]oting fraud . . . is facilitated by absentee voting.” *Griffin v. Roupas*, 385 F.3d 1128,
12 1130-31 (7th Cir. 2004) (holding that the Constitution does not require states to allow all
13 registered voters to vote by absentee ballots); *Qualkinbush*, 826 N.E.2d at 1197 (“It is
14 evident that the integrity of a vote is even more susceptible to influence and manipulation
15 when done by absentee ballot.”). And evidence of ballot collectors engaging in improper
16 conduct exists. *See* Ex. 3, ¶ 21, Ex. A; Ex. 18, ¶¶ 4-6; *see also* Ex. 6, at 70:20-71:18; Ex.
17 17, at 52-58 (describing instances of fraud in absentee and early voting).

18 As the Supreme Court has observed:

19 A State indisputably has a compelling interest in preserving the integrity of
20 its election process. Confidence in the integrity of our electoral processes
21 is essential to the functioning of our participatory democracy. Voter fraud
22 drives honest citizens out of the democratic process and breeds distrust of
our government. Voters who fear their legitimate votes will be outweighed
by fraudulent ones will feel disenfranchised.

23
24 ¹³ By comparison, Arizona’s requirement of documentary evidence of citizenship in order
25 to register to vote is not a severe burden, even though a person without such evidence
26 cannot register to vote in state elections. *See Gonzalez v. Arizona*, 485 F.3d 1041, 1049
27 (9th Cir. 2007) (“*Gonzalez I*”). And voter ID requirements likewise impose only a
28 minimal burden. *Crawford*, 553 U.S. at 198 (stating that the steps necessary to obtain a
photo identification card, including travel to a bureau of motor vehicles office, “surely
do[] not qualify as a substantial burden on the right to vote”).

1 *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (internal quotation marks and citations
2 omitted); *Qualkinbush*, 826 N.E.2d at 1199 (recognizing the important interest in
3 ensuring that each ballot “will be voted based on the intent of the voter, not someone
4 else”). Consequently, eliminating even the perception of fraud is a legitimate state
5 interest. Plaintiffs thus have not demonstrated that there is no rational basis for HB2023.

6 **2. Plaintiffs’ First Amendment Claim Cannot Succeed on the Merits.**

7 Plaintiffs also argue that HB2023 burdens their associational rights. Doc. 85, at
8 13. The *Burdick* test applies to this claim as well, *Timmons v. Twin Cities Area New*
9 *Party*, 520 U.S. 351, 358 (1997), but Plaintiffs’ witnesses have admitted that HB2023
10 does not burden their expressive activity. Ex. 8, at 99:19-103:13; Ex. 16, at 123:14-
11 127:12. It will not prevent them from engaging with voters to discuss candidates and
12 issues, to inform them about the process of voting, or to encourage them to vote. *Id.*
13 HB2023 only prevents Plaintiffs from collecting voters’ voted ballots. Like the voter
14 registration laws in *Voting for America*, 732 F.3d at 391, HB2023 “do[es] not in any way
15 restrict or regulate who can advocate pro-vot[ing] messages, the manner in which they
16 may do so, or any communicative conduct. [It] merely regulate[s] the receipt and
17 delivery of completed [ballots], two non-expressive activities.”¹⁴ Indeed, if collecting
18 and delivering early ballots were protected First Amendment activity, *not* delivering
19 those ballots would also be protected activity. *See id.* As the burden on Plaintiffs’ First
20 Amendment rights, if it exists at all, is not severe, the State’s interests in deterring fraud
21 related to early ballots are more than enough to justify HB2023.

22 **3. Plaintiffs’ Partisan Fencing Claim Does Not Withstand Scrutiny.**

23 Plaintiffs’ “partisan fencing” claim also cannot succeed. The term derives from

24
25 ¹⁴ Plaintiffs suggest that cases analyzing laws restricting voter registration activities
26 provide guidance here. Doc. 85, at 13 (citing *Project Vote v. Blackwell*, 455 F. Supp. 2d
27 694 (D. Ohio 2006)). Unlike the district court in *Project Vote*, the Fifth Circuit’s
28 decision in *Voting for America* provides exactly that analysis: the court carefully
reviewed the conduct at issue and concluded that returning completed voter registration
forms does not implicate the First Amendment. 732 F.3d at 392.

1 *Carrington v. Rash*, 380 U.S. 89, 91-92 (1965) (invalidating a law that completely denied
2 the right to vote to military personnel who were not permanent state residents), but
3 *Carrington* does not “create a separate equal protection cause of action to challenge a
4 facially neutral law that was allegedly passed with the purpose of fencing out voters of a
5 particular political affiliation.” *Ohio Org. Collaborative v. Husted*, 2:15-CV-1802, 2016
6 WL 3248030, at *48 (S.D. Ohio May 24, 2016); *Lee*, 2016 WL 2946181, at *26. Instead,
7 *Burdick* provides “the proper standard under which to evaluate an equal protection
8 challenge to laws that allegedly burden the right to vote of certain groups of voters.”
9 *Husted*, 2016 WL 3248030, at *48. And Arizona’s interest in preserving the integrity of
10 elections again outweighs Plaintiffs’ speculative burden under HB2023.

11 Plaintiffs nonetheless urge the Court to adopt a framework for alleged partisan
12 discrimination that has been reserved for discrimination on the basis of race or other
13 suspect classes.¹⁵ *One Wis. Inst., Inc. v. Nichol*, 15-CV-324-JDP, 2016 WL 2757454, at
14 *12 (W.D. Wis. May 12, 2016) (declining to adopt the position “that Democrats should
15 enjoy heightened constitutional protection akin to the level of scrutiny that the
16 Constitution requires for laws that discriminate on the basis of race or any other suspect
17 class”). But even if this Court adopts Plaintiffs’ approach, Plaintiffs have not shown
18 invidious partisan discrimination in HB2023. Indeed, their expert conceded that “[t]he
19 law was just pas[ed]. So we can’t do, you know, here was this election and the law had
20 this kind of impact. We don’t know yet.” Ex. 10, at 261:7-11; *see also* Doc. 101-2, at 3-
21 21 (discussing four of the five *Arlington Heights* factors, but omitting any analysis of the
22 discriminatory impact factor). And the anecdotal declarations of partisans and advocacy
23 organizations similarly fail to show a cognizable discriminatory impact.

24
25 ¹⁵ The Secretary moves to strike Plaintiffs’ expert on this topic. *See* Fed. R. Evid. 702(a);
26 *see also* *McCrary*, 2016 WL 1650774, at *140 (“Dr. Lichtman's ultimate opinions on
27 legislative intent . . . constitute[] nothing more than his attempt to decide the ultimate
28 issue for the court, rather than assisting the trier of fact in understanding the evidence or
any fact at issue.”); *United States v. Tamman*, 782 F.3d 543, 552 (9th Cir. 2015) (“[A]n
expert cannot testify to a matter of law amounting to a legal conclusion).

1 Plaintiffs also assert that HB2023 is discriminatory because of alleged
2 improprieties surrounding its passage. But there is no question that the Legislature
3 followed appropriate procedures or that there was robust debate from all sides on
4 HB2023. *See Lee*, 2016 WL 2946181, at *27 (“Additionally, the evidence failed to show
5 any departure from normal legislative procedures. Instead, although ultimately passing
6 on a near-party-line vote, the bill was subject to robust debate from all sides.”); *see also*
7 Ex. 10, at 105:3-106:9; Ex. 11, at 84:23-85:15 (stating that, based on his knowledge of
8 Arizona’s legislative processes, he did not see any issues with the process that resulted in
9 HB2023).

10 Finally, Plaintiffs claim direct evidence of partisan discrimination, Doc. 85, at
11 20, but the alleged “direct evidence” is nothing of the sort. “Direct evidence is evidence
12 which, if believed, proves the fact of discriminatory animus without inference or
13 presumption.” *Vasquez v. Cty. of Los Angeles*, 349 F.3d 634, 640 (9th Cir. 2003)
14 (internal quotation marks and alteration omitted). Plaintiffs must also show a nexus
15 between the comments and the passage of HB2023. *See id.* There is no nexus between
16 the Secretary’s comments at a political conference and the Legislature passing HB2023,
17 and the comments do not show discriminatory animus without inference.

18 **IV. Plaintiffs Have Not Shown Irreparable Harm.**

19 Plaintiffs also cannot satisfy the irreparable harm requirement. Because Plaintiffs
20 have not demonstrated a likelihood of success on the merits, they have not shown an
21 irreparable harm. *Hale v. Dep’t of Energy*, 806 F.2d 910, 918 (9th Cir. 1986). Even
22 ignoring that fundamental flaw, Plaintiffs have failed to show anything more than a
23 speculative harm. “Issuing a preliminary injunction based only on a possibility of
24 irreparable harm is inconsistent with our characterization of injunctive relief as an
25 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is
26 entitled to such relief.” *Winter*, 555 U.S. at 22; *see also Kamerling v. Massanari*, 295
27 F.3d 206, 214-15 (2d Cir. 2002). Plaintiffs offer nothing more than speculation that
28 HB2023 will have a discriminatory impact or burden any constitutional rights. Ex. 8, at

1 40:25-41:2; Ex. 10, at 261:7-11. Because their irreparable harm is—at best—speculative,
2 Plaintiffs have not satisfied this factor.

3 **V. The Balance of the Equities and the Public Interest Do Not Favor a**
4 **Preliminary Injunction.**

5 In a claim against the government, the public interest merges with the balance of
6 the equities. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of equities does not
7 favor Plaintiffs as they assert only a speculative harm and they fail to give any weight to
8 the harm the injunction would cause. Unlike Plaintiffs’ speculative harm, “any time a
9 State is enjoined by a court from effectuating statutes enacted by representatives of its
10 people, it suffers a form of irreparable injury.” *Maryland v. King*, 133 S.Ct. 1, 3 (2012)
11 (internal quotation marks and citation omitted).

12 Plaintiffs seek an injunction against an election law, and the “State indisputably
13 has a compelling interest in preserving the integrity of its election process.” *Purcell*, 549
14 U.S. at 4; *Crawford*, 553 U.S. at 203. The Ninth Circuit has therefore held that the “law
15 recognizes that election cases are different from ordinary injunction cases,” because
16 “hardship falls not only upon the putative defendant, the [Arizona] Secretary of State, but
17 on all the citizens of [Arizona].” *Sw. Voter Registration Educ.*, 344 F.3d at 919.

18 As such, Plaintiffs’ motion “threaten[s] to short circuit the democratic process by
19 preventing laws embodying the will of the people from being implemented in a manner
20 consistent with the Constitution.” *Wash. State Grange*, 552 U.S. at 451. “Given the deep
21 public interest in honest and fair elections and the numerous available options for the
22 interested parties to continue to vigorously participate in the election, the balance of
23 interests falls resoundingly in favor of the public interest.” *Lair v. Bullock*, 697 F.3d
24 1200, 1215 (9th Cir. 2012). The Court should therefore find that these factors also cut
25 against the Plaintiff’s request for a preliminary injunction.

26 **VI. Conclusion**

27 For the foregoing reasons, Plaintiffs’ Motion should be denied.
28

1 RESPECTFULLY SUBMITTED this 19th day of July, 2016.
2

3 MARK BRNOVICH
4 Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2016, I electronically transmitted the foregoing document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

s/ Maureen Riordan _____

#5206381

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11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF ARIZONA**

13	Leslie Feldman, et al.,)	Case No. CV-16-01065-PHX-DLR
14)	
15	Plaintiffs,)	
16	v.	)	DECLARATION OF
17		)	KAREN J. HARTMAN-TELLEZ
18	Arizona Secretary of State’s Office, et al.,)	
19)	
20	Defendants.)	
21)	
22)	

23 I, Karen J. Hartman-Tellez, declare:

24 1. I am an attorney employed by the Office of the Arizona Attorney General
 25 as an Assistant Attorney General and I represent the Arizona Secretary of State’s Office,
 26 Arizona Secretary of State Michele Reagan, and Arizona Attorney General Mark
 27 Brnovich (collectively, the “State Defendants”) in this matter. I am a member in good
 28

1 standing of the State Bar of Arizona. I make this Declaration in support of the State
2 Defendants' Response to Plaintiffs' Motion for Preliminary Injunction of HB2023. I
3 have personal knowledge of the facts stated herein and if called upon, could testify
4 competently to them.

5 2. Attached hereto as Exhibit 1 is a true and correct copy of the Declaration of
6 Eric Spencer, Arizona Election Director.

7 3. Attached hereto as Exhibit 2 is a true and correct copy of the National
8 Conference of State Legislatures 50-state survey of Absentee and Early Voting, available
9 at <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>
10 (last accessed July 17, 2016).

11 4. Attached hereto as Exhibit 3 is a true and correct copy of the Declaration of
12 Rey Valenzuela, Assistant Director of the Maricopa County Elections Department.

13 5. Attached hereto as Exhibit 4 is a true and correct copy of lists of early
14 voting locations for the August 30, 2016 Primary Election printed from the websites of
15 (a) the Maricopa County Recorder, <http://recorder.maricopa.gov/elections/evlocations>
16 .aspx (last accessed July 16, 2016), (b) the Pima County Recorder,
17 [https://www.recorder.pima.gov/docs/2016/Early%20Voting%20Sites%20Primary%20Au](https://www.recorder.pima.gov/docs/2016/Early%20Voting%20Sites%20Primary%20Aug%2030-2016.pdf)
18 [g%2030-2016.pdf](https://www.recorder.pima.gov/docs/2016/Early%20Voting%20Sites%20Primary%20Aug%2030-2016.pdf) (last accessed July 17, 2016), (c) the Coconino County Recorder,
19 <http://coconino.az.gov/DocumentCenter/View/11482> (last accessed July 17, 2016), (d)
20 the Yavapai County Recorder, <http://www.yavapai.us/electionsvr/early-voting> (last
21 accessed July 16, 2016), (e) the Cochise County Recorder,
22 <https://www.cochise.az.gov/recorder/home> (last accessed July 16, 2016), and (f) the Gila
23 County Recorder, http://www.gilacountyaz.gov/government/recorder/early_polling_sites
24 .php (last accessed July 16, 2016).

1 6. Attached hereto as Exhibit 5 is a true and correct copy of the Bill Status
2 Overview for House Bill 2023, available at
3 <http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/52leg/2r/bills/hb2023o.asp>
4 &Session_ID=115 (last accessed July 17, 2016).

5 7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts of
6 transcripts of testimony before the House Elections Committee on January 25, 2016 and
7 testimony on the floor of the House of Representatives on February 4, 2016.

8 8. Attached hereto as Exhibit 7 is a true and correct copy of 2016 Ariz. Sess.
9 Laws ch. 5 (“HB 2023”).

10 9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts of the
11 transcript of the deposition of Sheila Healy, Executive Director of the Arizona
12 Democratic Party.

13 10. Attached hereto as Exhibit 9 is a true and correct copy of the list of
14 legislative candidates for the August 30, 2016 Primary Election, available at
15 <http://apps.azsos.gov/election/2016/Candidates/PrimaryCandidates.htm> (last accessed
16 <http://apps.azsos.gov/election/2016/Candidates/PrimaryCandidates.htm> (last accessed
17 July 17, 2016).

18 11. Attached hereto as Exhibit 10 is a true and correct copy of excerpts of the
19 transcript of the deposition of Dr. Allan J. Lichtman, PhD.

20 12. Attached hereto as Exhibit 11 is a true and correct copy of excerpts of the
21 transcript of the deposition of Dr. David Berman, PhD.

22 13. Attached hereto as Exhibit 12 is a true and correct copy of the United States
23 Department of Justice’s list of Voting Determination Letters for Arizona, available at
24 <https://www.justice.gov/crt/voting-determination-letters-arizona> (last accessed July 17,
25 <https://www.justice.gov/crt/voting-determination-letters-arizona> (last accessed July 17,
26 2016).

1 14. Attached hereto as Exhibit 13 is a true and correct copy of a January 24,
2 2005 letter from Joseph D. Rich, Chief, Voting Section, United States Department of
3 Justice, Civil Rights Division to Jessica G. Funkhouser, Esq., Special Counsel, Office of
4 the Arizona Attorney General concerning preclearance of the voting-related provisions of
5 Proposition 200 (2004).

6 15. Attached hereto as Exhibit 14 is a true and correct copy of the NALEO
7 Educational Fund National Directory of Latino Elected Officials, available at
8 [https://d3n8a8pro7vhmx.cloudfront.net/naleo/pages/171/attachments/original/144057018](https://d3n8a8pro7vhmx.cloudfront.net/naleo/pages/171/attachments/original/1440570181/2015_National_Directory_of_Latino_Elected_Officials.pdf?1440570181)
9 [1/2015_National_Directory_of_Latino_Elected_Officials.pdf?1440570181](https://d3n8a8pro7vhmx.cloudfront.net/naleo/pages/171/attachments/original/1440570181/2015_National_Directory_of_Latino_Elected_Officials.pdf?1440570181) (last accessed
10 July 17, 2016).

11 16. Attached hereto as Exhibit 15 is a true and correct copy of a printout from
12 the website of the National Association of Governors listing former governors with
13 Hispanic or Latino ethnicity, available at <http://bit.ly/29X8q6Q> (last visited July 17,
14 2016).

15 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts of the
16 transcript of the deposition of Randy Parraz.

17 18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts of John
18 C. Fortier, *Absentee and Early Voting: Trends, Promises, and Perils* (AEI Press 2006),
19 available at [https://www.aei.org/wp-content/uploads/2014/06/-absentee-and-early-](https://www.aei.org/wp-content/uploads/2014/06/-absentee-and-early-voting_155531845547.pdf)
20 [voting_155531845547.pdf](https://www.aei.org/wp-content/uploads/2014/06/-absentee-and-early-voting_155531845547.pdf) (last visited July 17, 2016).

21 19. Attached hereto as Exhibit 18 is a true and correct copy of the Declaration
22 of Gary Ramirez.

23 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of
24 the United States that the foregoing is true and correct.

1 EXECUTED this 18th day of July, 2016 in Phoenix, Arizona.

2
3 s/ Karen J. Hartman-Tellez
4 Karen J. Hartman-Tellez
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EXHIBIT 1

Secretary of State also publishes the Election Procedures Manual that provides additional guidance on the conduct of elections in Arizona. As the State Election Director, I am deeply familiar with the policies and procedures contained in the Procedures Manual.

2. In my capacity as the State Election Director, I regularly discuss election policies and procedures with county election officials. Through those discussions and my experiences with the administration of elections in Arizona, I am familiar with many of the additional policies and procedures that Arizona counties use to conduct elections.
3. By law, Arizona provides a variety of methods to facilitate voting.
4. Arizona provides for early voting for all voters. A.R.S. § 16-542.
5. Arizona provides for early voting in every election. A.R.S. § 16-541. The postage on an early ballot is prepaid, so a voter may return it at no cost. A.R.S. § 16-542(C).
6. Voters may request early ballots as early as 93 days before any election and as late as 5:00 p.m. on the second Friday before the election. If a voter requests an early ballot from a county but does not provide all the information necessary to complete the election, the county must contact the voter to inform them the request is not complete and correct.
7. In order to facilitate early voting, some counties allow voters to request early ballots through the county's website.
8. If a voter requests an early ballot within 27 days of the next election, the early ballot must be mailed to the voter within 48 hours of the receipt of the request. A.R.S. § 16-542(D). In 2015, Arizona expanded the early voting period from 26 days before the election to 27 days before the election.
9. Arizona also provides precinct lists to recognized political parties to facilitate early voting. Beginning 33 days before an election, the state and county chairmen of recognized political parties can request, at no cost, a daily list of voters that have

requested an early ballot. They can also receive, at no cost, a weekly listing of persons who have returned early ballots. And, in counties with a population of more than 800,000 people, the chairmen can request at no cost a daily list of persons who have returned their early ballots. A.R.S. § 16-168(D). This allows the political parties to ensure that voters have every opportunity to return their early ballots.

10. Arizona also allows all voters to join the Permanent Early Voting List (“PEVL”).

A.R.S. § 16-544.

11. Voters on the PEVL receive a notice 90 days before each polling place election in March or August that informs the voter that they are on the PEVL, the date of the upcoming election, the date the early ballot is expected to be mailed, and a variety of other information to aid the voter. The notice also provides a method for the voter to change his or her mailing address.

12. The counties mail early ballots to PEVL voters no later than the first day of early voting. A.R.S. § 16-544(F).

13. Arizona adopts additional steps to facilitate early voting. For example, we have added a box on the voter registration form that allows voters to sign up for PEVL at the same time that they register to vote. Arizona also provides for online voter registration, and voters may sign up for the PEVL through the online voter registration process.

14. Arizona also provides additional procedures to facilitate early voting by uniformed and overseas voters. A.R.S. § 16-543. As part of these procedures, the Secretary of State provides a centralized system for uniformed and overseas voters to request and return early ballots and other voter information.

15. Arizona also allows its counties to establish on-site early voting locations at the county recorder’s office as well as other locations. Voting may begin at these early voting locations 27 days before the election. Upon information and belief, Arizona counties currently offer the following expanded access:

- Apache: 4 locations (including Recorder's office)
- Cochise: Recorder's office
- Coconino: 7 locations (including Recorder's office)
- Gila: 6 locations (including Recorder's office)
- Graham: Recorder's office
- Greenlee: Recorder's office
- La Paz: Recorder's office
- Maricopa: 21 locations (including Recorder's office)
- Mohave: 4 locations
- Navajo: 8 locations (including Recorder's office)
- Pima: 8 locations (including Recorder's office)
- Pinal: 3 locations (including Recorder's office)
- Santa Cruz: Recorder's office
- Yavapai: 2 locations (including Recorder's office)
- Yuma: Recorder's office

16. Voters who have received an early ballot through the mail may drop off their ballot at any polling location, without waiting in line.

17. Several counties also provide special drop boxes for early ballots to facilitate early voting.

18. Counties must also provide special election boards for voters who cannot make it to a polling location because of an illness or disability. A.R.S. § 16-549.

19. Arizona also provides for the polls to be open between 6:00 a.m. and 7:00 p.m. on Election Day. If a voter is required to work a shift on Election Day that provides less than three consecutive free hours between the beginning of the voter's shift and the opening of the polls or between the end of the voter's shift and the closing of the polls, the voter's employer is required to give the voter time off in order to vote. A.R.S. § 16-402.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 18th day of July, 2016.



Eric Spencer
Arizona State Election Director

EXHIBIT 2



NATIONAL CONFERENCE of STATE LEGISLATURES

Absentee and Early Voting

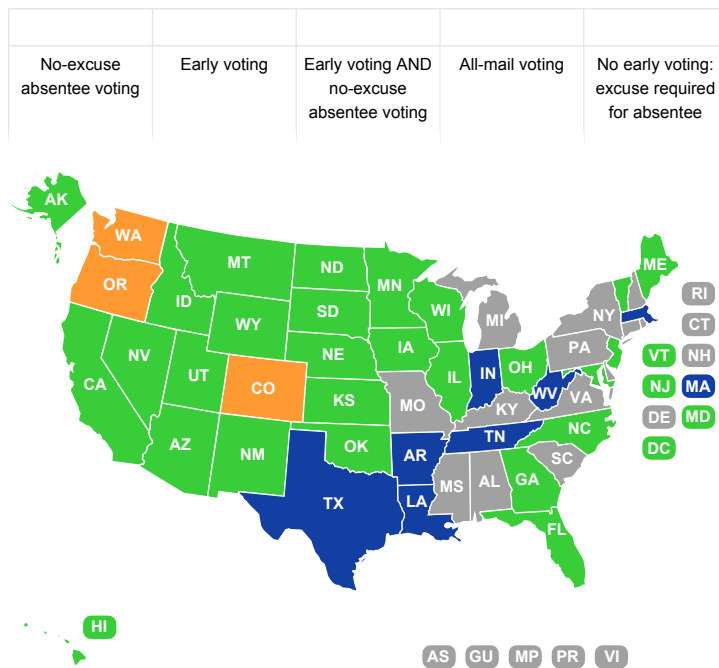
5/26/2016

Most states have a method for any eligible voter to cast a ballot before Election Day, either during the early voting period or by requesting an absentee ballot. In 13 states, early voting is not available and an excuse is required to request an absentee ballot.

States offer three ways for voters to cast a ballot before Election Day:

- Early Voting:** In 37 states (including 3 that mail ballots to all voters) and the District of Columbia, any qualified voter may cast a ballot in person during a designated period prior to Election Day. No excuse or justification is required.
- Absentee Voting:** All states will mail an absentee ballot to certain voters who request one. The voter may return the ballot by mail or in person. In 20 states, an excuse is required while 27 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse. Some states offer a permanent absentee ballot list: once a voter asks to be added to the list, s/he will automatically receive an absentee ballot for all future elections.
- Mail Voting:** A ballot is automatically mailed to every eligible voter (no request or application is necessary). In-person voting sites may also be available for voters who would vote in-person and to provide additional services to voters. Three states mail ballots to all eligible voters for every election. Other states may provide this option for some type of elections.

Scroll over the map below for state-by-state details.



Overview

The table below details the types of pre-election day voting that are available in each state. Information on the details of each category may be found below the table.

PRE-ELECTION DAY VOTING

State	In-Person	By Mail
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Source: National Conference of State Legislatures, January 2016.

(a) Certain elections may be held entirely by mail. The circumstances under which all-mail elections are permitted vary from state to state.

(b) Although these states do not have Early Voting in the traditional sense, within a certain period of time before an election they do allow a voter to apply in person for an absentee ballot (without an excuse) and cast that ballot in person at an election official's office. This is often known as "in-person absentee" voting.

(c) Massachusetts has Early Voting only during even-year November elections, beginning in 2016. Currently it does not permit Early Voting in primaries or municipal elections.

Early Voting

More than two-thirds of the states--37, plus the District of Columbia--offer some sort of early voting. Early voting allows voters to visit an election official's office or, in some states, other satellite voting locations, and cast a vote in person without offering an excuse for why the voter is unable to vote on Election Day. Some states also allow voters to receive, fill out and cast an absentee ballot in person at the elections office or at a satellite location rather than returning it through the mail. This is often referred to as in-person absentee voting. Satellite voting locations vary by state, and may include other county and state offices (besides the election office), grocery stores, shopping malls, schools, libraries, and other locations. More detailed information can be found on NCSL's [State Laws Governing Early Voting page](#).

The time period for early voting varies from state to state:

- The date on which early voting begins may be as early as 45 days before the election, or as late as the Friday before the election. The average starting time for early voting across all 34 states is 22 days before the election.
- Early voting typically ends just a few days before Election Day: seven days before the election in two states, on Thursday before the election in one state, the Friday before in eight states, the Saturday before in seven states and the Monday before Election Day in 13 states.
- Early voting periods range in length from four days to 45 days; the average across all 33 states is 19 days.
- Of the states that allow early in-person voting, 22 and the District of Columbia allow some weekend early voting:
 - Saturday: 18 states + the District of Columbia provide for voting on Saturday. 4 additional states (California, Kansas, Vermont and Massachusetts) leave it up to county clerks who may choose to allow Saturday voting.
 - Sunday: 4 states (Alaska, Illinois, Ohio and Maryland) allow for Sunday voting. 5 states (California, Florida, Georgia, Nevada and Massachusetts) leave it up to county clerks who may choose to be open on Sunday.

No-Excuse Absentee Voting

Absentee voting is conducted by mail-in paper ballot prior to the day of the election. States typically require that a voter fill out an application to receive an absentee ballot. Many states help facilitate this process by making absentee ballot applications available online for voters to print and send, and at least 10 states (Florida, Louisiana, Maryland, Minnesota and Utah) permit a voter to submit an application entirely online. Arizona has some counties that have online absentee ballot applications, and in Detroit, Michigan, voters can request an absentee ballot through a smartphone app.

While all states offer some version of absentee voting, there is quite a lot of variation in states' procedures. For instance, some states offer "no-excuse" absentee voting, allowing any registered voter to request an absentee ballot without requiring that the voter state a reason for his/her desire to vote absentee. Some states also allow a time period before the election for voters to appear at the elections office or other designated location in person to request, fill out and cast an absentee ballot in person. Still, other states permit voters to vote absentee only under a limited set of circumstances.

The following 27 states and D.C. offer "no-excuse" absentee voting:

NO-EXCUSE ABSENTEE VOTING

Alaska	Kansas	North Dakota
Arizona	Maine	Ohio
California	Maryland	Oklahoma
District of Columbia	Minnesota	South Dakota
Florida	Montana	Utah
Georgia	Nebraska	Vermont
Hawaii	Nevada	Wisconsin
Idaho	New Jersey	Wyoming
Illinois	New Mexico	
Iowa	North Carolina	

Source: National Conference of State Legislatures, January 2016

Permanent Absentee Voting

Some states permit voters to join a permanent absentee voting list. Once a voter opts in, s/he will receive an absentee ballot automatically for all future elections. The states that offer permanent absentee voting to any voter are:

- Arizona: [Ariz. Rev. Stat. §16-544\(A\)](#)
- California: [Cal. Elec. Code §3200](#)
- District of Columbia
- Hawaii: [Hawaii Rev. Stat. §15-4\(c\)](#)
- Montana: [Mont. Code Ann. §13-13-212\(4\)](#)
- New Jersey: [N.J. Stat. §19:63-3\(e\)](#)
- Utah: [Utah Code §20A-3-304\(4\)](#)

At least nine states offer permanent absentee status to a limited number of voters who meet certain criteria:

- Alaska ([Alaska Admin. Code tit. 6, § 25.650](#)) - voters who reside in a remote area where distance, terrain, or other natural conditions deny the voter reasonable access to the polling place
- Delaware ([Del. Code Ann. Tit. 15, §5503\(k\)](#)) - military and overseas voters, and their spouses and dependents; voters who are ill or physically disabled; voters who are otherwise authorized by federal law to vote by absentee ballot
- Kansas ([Kan. Stat. Ann. §25-1122\(g\)](#)) - voters with a permanent disability or an illness diagnosed as permanent
- Massachusetts ([Mass. Gen. Laws ch. 54, §86](#)) - permanently disabled voters
- Minnesota ([Minn. Stat. §203B.04](#)) - voters with a permanent illness or disability
- Mississippi ([Miss. Code Ann. § 23-15-629](#)) - permanently disabled voters
- Missouri ([Mo. Rev. Stat. §115.284](#)) - permanently disabled voters
- New York ([N.Y. Election Law §8-400](#)) - permanently disabled voters
- West Virginia ([W. Va. Code §3-3-2\(b\)](#)) - voters who are permanently and totally disabled and unable to vote at polls

Mail Voting

Three states -- Oregon, Washington and Colorado -- conduct all elections by mail. A ballot is automatically mailed to every registered voter in advance of Election Day, and traditional in-person voting precincts are not available. However, these states still provide one or more locations for voters to return mail ballots, vote in-person if they would like, and receive other voter services. Learn more about each state's vote-by-mail program: [Oregon](#), [Washington](#), [Colorado](#).

Nineteen other states allow certain elections to be held by mail. More information can be found on NCSL's [All-Mail Elections \(aka Vote-By-Mail\) webpage](#).

Early and Absentee Voting in Your State

Are you looking for information on how to vote early or by absentee ballot in an upcoming election? While NCSL is not directly involved in holding elections and cannot provide information or advice on how, when or where to vote in your state, we are pleased to provide this link to a page which will direct you to the answers you need regarding your state's laws: [Vote?](#)

Military Voters

All states permit members of the military who are stationed overseas, their dependents, and other U.S. citizens living abroad to vote by absentee ballot. For more information, please visit the [Overseas Vote Foundation](#).

Additional Resources

- [NCSL's State Laws Governing Early Voting page](#)
- Article from NCSL's elections newsletter, *The Canvass*: [Pre-Election Day Voting—Just the FAQs, Ma'am](#)
- [NCSL's video Q&A with MIT's Charles Stewart III](#) on early voting and turnout
- [The Early Voting Information Center \(EVIC\)](#) based at Reed College
- [The U.S. Vote Foundation](#) has state dates deadlines for requesting and returning absentee ballots, as well as early voting periods
- [Long Distance Voter](#), a non-profit with information on registering and voting by mail

NCSL Member Toolbox

Members Resources

- [Get Involved With NCSL](#)
- [Jobs Clearinghouse](#)
- [Legislative Careers](#)
- [NCSL Staff Directories](#)
- [Staff Directories](#)
- [StateConnect Directory](#)

Policy & Research Resources

- [Bill Information Service](#)
- [Legislative Websites](#)
- [NCSL Bookstore](#)
- [State Legislatures Magazine](#)

Accessibility Support

- [Tel: 1-800-659-2656 or 711](#)
- [Accessibility Support](#)
- [Accessibility Policy](#)

Meeting Resources

- [Calendar](#)
- [Online Registration](#)

Press Room

- [Media Contact](#)
- [NCSL in the News](#)
- [Press Releases](#)

Denver

7700 East First Place
Denver, CO 80230
Tel: 303-364-7700 | Fax: 303-364-7800

Washington

444 North Capitol Street, N.W., Suite 2000
Washington, D.C. 20001
Tel: 202-624-5400 | Fax: 202-737-1000

EXHIBIT 3

1 WILLIAM G. MONTGOMERY
 2 MARICOPA COUNTY ATTORNEY
 3 By: M. Colleen Connor (Bar No. 015679)
 4 Andrea L. Cummings (Bar No. 013507)
 5 Joseph I. Vigil (Bar No. 018677)
 6 Deputy County Attorneys
 7 MCAO Firm No. 0003200
 8 CIVIL SERVICES DIVISION
 9 222 N. Central Avenue, Suite 1100
 10 Phoenix, Arizona 85004
 11 Telephone (602) 506-8541
 12 Facsimile (602) 506-8567
 13 connorc@mcao.maricopa.gov
 14 cumminga@mcao.maricopa.gov
 15 vigilj@mcao.maricopa.gov
 16 ca-civilmailbox@mcao.maricopa.gov
 17 Attorneys for Maricopa County Defendants

18 IN THE UNITED STATES DISTRICT COURT
 19 FOR THE DISTRICT OF ARIZONA

<p>20 Leslie Feldman, et al.,</p> <p>21 Plaintiffs,</p> <p>22 v.</p> <p>23 Arizona Secretary of State’s Office, et al.,</p> <p>24 Defendants.</p>	<p>25 No. CV-16-01065-DLR-PHX-DLR</p> <p>26</p> <p>27 DECLARATION OF REY VALENZUELA</p>
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28 Under 28 U.S.C. § 1746, I, Rey Valenzuela, declare as follows:

1. I am over 18 years of age and a resident of Maricopa County, Arizona.
2. Except where indicated, I state the following of my own knowledge and if called upon to do so, could testify competently to the following.
3. I am the Assistant Director of the Maricopa County Elections Department, a position I have held for 9 years.

1 4. Since 2015, I have served on the Executive Committee of the United States
2 Elections Assistance Commission Standards Board. The Commission was established by
3 the Help America Vote Act of 2002 (HAVA) and is an independent, bipartisan
4 commission charged with developing guidance to meet HAVA requirements, adopting
5 voluntary voting system guidelines, and serving as a national clearinghouse election
6 administration information. The Commission's Standards Board is a nine-member body
7 appointed from the 110-member Commission, which directs the Board in assisting the
8 Commission in carrying out its mandates under the law.

9 5. In Arizona, a voter may vote early by mail or in person. Except for
10 uniformed or overseas voters, the State has eliminated "absentee" voting because any
11 voter may vote early without providing a reason for doing so.

12 6. For early voting by mail, voters have the option of being placed on the
13 Permanent Early Voting List, or "PEVL." There are about 1.3 million people on the
14 PEVL in Maricopa County. Postage is paid by the County, in advance, for early-voting-
15 by-mail ballots. The County also offers a mobile app showing early-voting-by-mail ballot
16 drop-off locations.

17 7. Early voting begins 27 days before a primary or general election. In-person
18 early voting ends the Friday before the election. The Maricopa County Elections
19 Department also recommends that early mail-in ballots be mailed by the Wednesday
20 before the election in order to reach the Recorder's office by 7:00 pm on election day.

21 8. Between 27 and 24 days before the election, early ballot packages are
22 mailed to voters on the PEVL and those non-PEVL voters who requested an early ballot
23 before the 27th day before the election. For early ballot requests received after the initial
24 mailing date, early ballot packages are mailed within 48 hours of receipt of the request. A
25 voter may request an early ballot up to 11 days before the election.
26
27
28

1 9. The mailing labels for Early Ballot packets are printed 45 days before
2 Election Day utilizing information in the voter registration database as of 45 days before
3 the election. But because people may register or change their registration up until 29 days
4 before an election, ballots are not mailed to voters until 27 days before an election (and
5 no later than 24 days before an election). A ballot directed to a voters who changed or
6 updated his registrations fewer than 45 days before an election may be struck and
7 reissued if the ballot was initially printed with outdated information. Before generating a
8 second early ballot with the voter's updated information, the early voting system
9 deactivates the first early ballot.
10

11 10. For the 2016 primary and general elections, Maricopa County will operate
12 21 in-person early voting sites throughout the County. Two of those locations will be
13 open for early voting on two Saturdays during the early voting period. The locations and
14 hours for the early voting sites are posted on the Recorder's website:
15 <http://recorder.maricopa.gov/elections/evlocations.aspx>.
16

17 11. A voter who has not mailed his or her early ballot in time for it to reach the
18 Recorder's office by 7:00 pm on election day may drop off the ballot at the Recorder's
19 office or any polling place in the County before 7:00 pm on election day. In addition, a
20 voter's family member, household member, or caregiver may deliver a ballot to the
21 foregoing locations on election day.
22

23 12. A voter who is confined due to a continuing illness or physical disability,
24 and therefore cannot go to the polls on election day but does not want to vote by mailed
25 early ballot, may contact the Elections Department to request a special election board
26 pursuant to A.R.S. § 16-549. The Elections Department responds to those requests in the
27 order received and sends a special election board to the voter with a ballot.
28

13. The polls are open 6:00 a.m. to 7:00 p.m. on Election Day, and the County

1 will have 724 precinct polling place locations for both the Primary election on August 30,
2 2016 and the General election on November 8, 2016.

3 14. The County Recorder offers a monthly media forum where all media are
4 invited to learn election information to communicate to the public.

5 15. Officials in our offices, especially the County Recorder and County
6 Elections Director, are always available for media interviews. As an election nears, they
7 often give media interviews on the public television station and the local Hispanic
8 network affiliate.

9 16. The County Recorder's office and Elections Department have active social
10 media presences, and items like "Early voting has begun," are often posted on social
11 media sites like Twitter and Facebook, to alert the public.

12 17. Voter education efforts also include the mailing of sample ballots with the
13 candidates' names and parties, acceptable forms of identification for voters, the voter's
14 precinct code, the precinct name, the polling location facility name, the facility address,
15 the facility location (indicating major cross streets), and the hours of operation for the
16 polling location.

17 18. In 2012, a young man came to my home during the early voting period and
18 asked for my wife by her maiden name. The man explained that he was willing to collect
19 my wife's early ballot and deliver it to the County Recorder's office.

20 19. When I asked him what organization he represented, the man said he was
21 from "Elections." I pointed to my County Elections Department shirt, which I had worn
22 to work that day, and explained to him that I did not believe he worked for the County
23 Elections Department because I did not know him. The man became flustered and
24 quickly left.
25
26
27
28

Feldman v. Arizona Secretary of State's Office,
No. CV-16-01065-PHX-DLR

Declaration of Rey Valenzuela
Exhibit A

Activists threaten lawsuit over county officials' early ballot warning

By: Evan Wyloge October 22, 2012, 3:01 pm



Hispanic activists are threatening to sue Maricopa County Recorder Helen Purcell if she doesn't retract and clarify a statement she made last week.

During part of a news story Thursday aired by local CBS affiliate KPHO, Purcell warned voters about giving their ballot to someone offering to turn it in.

"According to County Recorder Helen Purcell, no one has been authorized to pick up the ballots," KPHO reporter Donna Rossi narrates. "In fact Purcell points out that it's a Class 5 felony to possess someone else's ballot."

That is not true under Arizona law, the activists say.

Roopali Desai, an attorney working on behalf of Promise Arizona in Action, a political activism group that is threatening to sue Purcell, said the law is very simple.

A.R.S. 16-1005 says it's illegal to pose as election officials or to collect a ballot and not turn it in, Desai said. But it does not outlaw possessing a ballot to turn it in for someone. The Voting Rights Act of 1965, Desai said, expressly states that people can be assisted in casting a ballot.

Purcell said that she was pointing out that she has heard reports of people coming to a voter's door and saying they were "from the county," before asking to take a ballot to turn in. She said she was trying to highlight that it is a Class 5 felony to offer to pick up a ballot while also impersonating an election official. She said she will not retract what she said, and that she cannot take responsibility for what KPHO's reporters may have added to the piece.

KPHO's online companion article ends with "Purcell said that if anyone comes to your door wanting to pick up your ballot, call police," but Purcell said she did not make that comment.

If there was any muddling of the truth, Purcell said, it was on the part of KPHO. Representatives of the station could not be reached for comment.

Democratic field workers and activists say they have never impersonated election officials. They have developed a strategy to boost voter participation that they say is now suspect to some voters after Purcell's warning.

Randy Parraz, a lead organizer with Citizens for a Better Arizona, the group that helped unseat former Senate President Russell Pearce, said picking up completed ballots from those on the early voter list is part of a carefully thought-out system for increasing voter participation.

First, he and his volunteers go register new voters and urge them to sign up for the permanent early voter list, which means they will receive an early ballot in the mail. Volunteers keep the information so when early ballots go out they can return, check to see if the person has filled out the ballot, urge them to do so if they haven't and offer to take it to the recorder's office.

"We've collected more than a thousand ballots just in the last week. I'm looking at over a hundred sitting in my office right now," Parraz said. "Now she's telling people to call the police if we ask to help someone vote? Are you out of your mind?"

Promise Arizona in Action met with Purcell Monday afternoon to discuss the issue. According to a press release sent out by the group after the meeting, Purcell admitted that the KPHO story had inaccuracies in it, and the group urged Purcell to issue a clarifying statement.

Desai, the attorney representing Promise Arizona in Action said in a previous letter that the group would file a lawsuit against the recorder's office if they did not retract or refute what was said in the story. Parraz said he is also considering a lawsuit on behalf of Citizens for a Better Arizona.

Parraz said he has talked with well-known election attorney Tom Ryan and they are considering hiring him to take the case.

Frank Camacho, the spokesman for the Arizona Democratic Party, said it's possible that Purcell's comment may have already had a detrimental effect on their efforts.

"Our volunteers and our staff folks are going out and knocking on doors and getting ballots now," Camacho said.

Camacho said if his volunteers will note what's in the law if they encounter anyone who saw Purcell's statement and is skeptical.

This comes after another incident two weeks ago, when Purcell's office sent a Spanish-language leaflet to Spanish-speaking voters telling them the Nov. 6 election would be held on Nov. 8.

Purcell said it was just a typo. But Parraz said the repeated mistakes make him think that Purcell, a Republican, may be using her post for partisan purposes.

"The English version of that flyer had a 6 (Nov. 6 election date) and the Spanish version magically turns into an 8? Give me a break." Parraz said.

"We've helped thousands of new voters participate in Arizona elections doing this, and she should be thanking us for that," Parraz said. "If she wasn't acting in a partisan way, how do you explain it? She's better than that. She needs to either shut her mouth or set the record straight."

Camacho said the party has always had a cooperative relationship with Purcell and that he hopes that Purcell will be inclined to retract what she said and clarify what is and is not prohibited.

EXHIBIT 4

Early Voting Locations & Hours

AUGUST 30, 2016 - PRIMARY ELECTION

RECORDER'S/ELECTIONS OFFICE - MCTEC

510 South 3rd Avenue, Phoenix

Early Voting:

Begins Wed, Aug 3 Ends Fri, Aug 26, 5PM

Mon - Fri, 8AM - 5PM

Sat, Aug 13 & 20, 8 AM - 5PM

***Free Parking**

RECORDER'S/ELECTIONS OFFICE - MESA

222 East Javelina, Mesa

Early Voting:

Begins Wed, Aug 3 Ends Fri, Aug 26, 5PM

Mon - Fri, 8AM - 5PM

Sat, Aug 13 & 20, 8 AM - 5PM

***Free Parking**

RECORDER'S/ELECTIONS OFFICE - DOWNTOWN

111 South 3rd Avenue, Phoenix

Early Voting:

Begins Wed, Aug 3 Ends Fri, Aug 26, 5PM

Mon - Fri, 8AM - 5PM

***Meter Parking Only (coins or debit/credit cards required)**

AVONDALE CITY CLERK'S OFFICE

11465 W Civic Center Dr, Avondale
Early Voting:
Begins Wed, Aug 3 Ends Thurs, Aug 25, 6PM
Mon-Thurs, 7AM - 6PM

ABILITY360 CENTER

Computer Lab Room, 2nd Floor
5025 E Washington St, Phoenix
Early Voting:
Begins Mon, Aug 8 Ends Fri, Aug 26, 5PM
Mon - Fri, 8AM - 5PM

BUCKEYE CITY CLERK'S OFFICE

530 E Monroe Ave, Buckeye
Early Voting:
Begins Wed, Aug 3, Ends Thurs, Aug 25, 6PM
Mon-Thurs, 7AM - 6PM

CAREFREE TOWN CLERK'S OFFICE

8 Sundial Cir, Carefree
Early Voting:
Begins Wed, Aug 3 Ends Thurs, Aug 25, 4:30PM
Mon - Thurs, 7AM - 4:30PM

CAVE CREEK TOWN CLERK'S OFFICE

37622 N Cave Creek Rd, Cave Creek
Early Voting:
Begins Wed, Aug 3 Ends Thurs, Aug 25, 5PM
Mon - Thurs, 7AM - 5PM

CHANDLER CITY CLERK'S OFFICE

175 S Arizona Ave, Chandler

Early Voting:

Begins Mon, Aug 8 Ends Fri, Aug 26, 5PM

Mon – Fri 8AM – 5PM

EL MIRAGE CITY CLERK'S OFFICE

12145 NW Grand Ave, El Mirage

Early Voting:

Begins Wed, Aug 3, Ends Fri, Aug 26, 5PM

Mon – Fri, 8AM – 5PM

FOUNTAIN HILLS TOWN CLERK'S OFFICE

16705 E Ave of the Fountains, Fountain Hills

Early Voting:

Begins Mon, Aug 8 Ends Thurs, Aug 25, 6PM

Mon – Thurs, 7AM – 6PM

GILA BEND TOWN CLERK'S OFFICE

644 W Pima St, Gila Bend

Early Voting:

Begins Mon, Aug 8 Ends Fri, Aug 26 at 4PM

Mon-Fri, 8AM - 4PM

GILBERT MUNICIPAL CENTER

50 E Civic Center Dr, Gilbert

Early Voting:

Begins Wed, Aug 3 Ends Thurs, Aug 25 6PM

Mon – Thurs 7AM – 6PM

LITCHFIELD PARK CITY CLERK'S OFFICE

214 W Wigwam Boulevard, Litchfield Park

Early Voting:

Begins Mon, Aug 8, Ends Fri, Aug 26, 5PM

Mon – Fri, 8AM – 5PM

MESA CITY CLERK'S OFFICE

20 E Main St, Mesa

Early Voting:

Begins Wed, Aug 3 Ends Thurs, Aug 25, 6PM

Mon - Thurs, 7AM - 6PM

SCOTTSDALE CITY HALL/ELECTION'S OFFICE

3939 N Drinkwater Blvd, Scottsdale

Early Voting:

Begins Wed, Aug 3 Ends Fri, Aug 26, 5PM

Mon - Fri, 9AM - 5PM

SOUTH MOUNTAIN COMMUNITY CENTER

212 E Alta Vista Rd, Phoenix

Early Voting:

Begins Mon, Aug 8 Ends Fri, Aug 26, at 5PM

Monday - Friday, 9AM - 5PM

Sat, August 13, 10AM - 4PM

Sat, August 20, 10AM - 4PM

SURPRISE CITY CLERK'S OFFICE

16000 N Civic Center Plaza, Surprise

Early Voting:

Begins Wed, Aug 3, Ends Fri, Aug 26, 5PM

Mon - Fri, 8AM - 5PM

TEMPE - ASU (Safety Escort Office, Palo Verde West Bldg (Room 151))

330 E University Dr, Tempe

Early Voting:

Begins Mon, Aug 8, Ends Fri, Aug 26, 5PM

Mon - Thurs, 10AM - 6PM

Fri, 10AM - 5PM

WICKENBURG TOWN CLERK'S OFFICE

155 N Tegner St, Wickenburg

Early Voting:

Begins Mon, Aug 8, Ends Fri, Aug 26, 6PM

Mon - Thurs, 7AM - 6PM

Open Fri, Aug 26 only

YOUNGTOWN TOWN CLERK'S OFFICE

12030 N CLUBHOUSE SQ, YOUNGTOWN

Early Voting:

Begins Wed, Aug 3, Ends Fri, Aug 26, 4PM

Mon - Fri, 8AM - 4PM

Election Results

[Looking to view the latest in Election Results? Click here!](#)



Honorable F. Ann Rodriguez
Pima County Recorder

240 North Stone Avenue, Tucson, AZ 85701
PHN: (520) 724-4330 FAX: (520) 623-1785
WEB: www.recorder.pima.gov

Have Questions? Call (520) 724-4330.

**EARLY VOTING SITES
2016 PRIMARY ELECTION**

DOWNTOWN

Recorder's Main Office
240 North Stone Avenue
Located downtown in the new County
Public Service Center

DATES/TIMES OPEN

SITE OPEN Wednesday, 8/3 - Friday 8/26/16
Monday -- Friday
8:00 a.m. – 5:00 p.m. week days

EAST SIDE

Recorder's East Side Annex
Suite D
6920 East Broadway Boulevard
Located at southwest corner of Broadway
and Kolb, west of the Gaslight Theater.

SITE OPEN Wednesday 8/3- Friday 8/26/16
Monday -- Friday
8:00 a.m. – 5:00 p.m. week days

SOUTH SIDE

Pima County Recorder's Office Annex
6550 S. Country Club Rd.
Located 1 block south of Valencia on west side
of street, northeast corner of building.

SITE OPEN Wednesday 8/3 - Friday 8/26/16
Monday -- Friday
8:00 a.m. – 5:00 p.m. week days

EMERGENCY VOTING

Monday, August 29, 2016 at the 3 Recorder's
Office locations above
8:00 a.m. – 5:00 p.m. MONDAY ONLY

NORTH SIDE

Ascension Lutheran Church and School
1220 W. Magee Rd.
On Magee East of La Canada

SITE OPEN Monday, 8/15 – Friday, 8/26/16
Monday - Friday
9:00 a.m. – 5:00 p.m.

EARLY VOTING SITES
2016 Primary Election

Page 2

SAHUARITA / GREEN VALLEY AREA

Sahuarita Town Hall
375 West Sahuarita Center Way
Inside Sahuarita Town Hall

SITE OPEN Monday 8/15 - Friday 8/26/16
Monday - Friday
9:00 a.m. – 4:30 p.m.

AJO

Salazar-Ajo Library
33 Plaza Street
Conference Room

SITE OPEN Monday, 8/22 – Friday, 8/26/16
9:00 a.m. – 5:00 p.m.

PASCUA YAQUI TRIBE (only)

Pascua Yaqui Tribe Radio Station
7474 S. Camino de Oeste

SITE OPEN Monday, 8/22 – Friday, 8/26/16
9:00 a.m. – 5:00 p.m.

TOHONO O'ODHAM NATION (only)

Sells Recreation Center
Multipurpose room

SITE OPEN Monday, 8/22 – Friday, 8/26/2016
9:00 a.m. – 4:00 p.m.

Early Voting Sites for the 2016 Elections

Location	Early Ballot Precincts Voting At Location
Coconino County Elections Office 110 E Cherry Ave Flagstaff, AZ (Monday - Friday 8:00 am - 5:00 pm)	All Precincts
Tuba City Elections Office Basement of Tuba City Library Tuba City, AZ (Monday - Friday 8:00 am - 5:00 pm Daylight Savings Time)	Bodaway 42, Cameron 43, Coppermine 47, Coalmine 48, Inscription House 61, Kaibeto 65, Lechee 67, Leupp 69, Moenkopi 70, Navajo Mountain 71, Tolani Lake 88, Tonalea 90, Tuba City Northeast 93, Tuba City Northwest 94 & Tuba City South 95
Williams City Hall 113 S 1 st St Williams, AZ (Monday - Thursday 7:30 am - 5:00 pm)	Kaibab North 64, Kaibab West 66, Parks 79, Williams Northside 98 & Williams Southside 99
Sedona City Hall 102 Roadrunner Dr Sedona, AZ (Monday - Thursday 7:00 am - 6:00 pm)	Sedona North 82 & Sedona South 83
Page City Hall 697 Vista Ave Page, AZ (Monday - Thursday 7:00 am - 5:30 pm)	Page Central 72, Page East 73, Page South 74, Page West 75, Lechee 67, Bodaway 42, Coppermine 47, Inscription House 61, Kaibeto 65 & Navajo Mountain 71
Fredonia Town Hall 25 N Main St Fredonia, AZ (Monday - Thursday 7:30 am - 5:30 pm)	Fredonia 58
Grand Canyon Schools Superintendent's Office Grand Canyon National Park 1 Boulder St Grand Canyon, AZ (Monday - Thursday 6:00 am - 4:30 pm)	Grand Canyon 59 & Tusayan 97



(http://www.yavapai.us/electionsvr/)

(http://www.yavapai.us/search-results)

VOTER INFORMATION > EARLY VOTING (HTTP://WWW.YAVAPAI.US/ELECTIONSVR/EARLY-VOTING)

Saturday, July 16, 2016

County Home (http://www.yavapai.us) Contact Info (http://www.yavapai.us/contact-us)

Early Voting

Departments (http://www.yavapai.us/departments) Meetings (http://www2.yavapai.us/meetings)

Home (http://www.yavapai.us/electionsvr/) Voter Information

Elections & Results (http://www.yavapai.us/electionsvr/elections-and-results)

Poll Workers

Candidate & Campaign Finance Info

FAQs (http://www.yavapai.us/electionsvr/faqs)

Related Links

Forms (http://www.yavapai.us/electionsvr/forms)

Contact Us (http://www.yavapai.us/electionsvr/contact-us)

Frequently Asked Questions

En Español (http://www.yavapai.us/electionsvr-sp/)

How do I submit my early ballot?

How do I vote early or request a mail ballot?

- To request a ballot by mail contact our office, either verbally or in writing, email, or through our Early Ballot Request website no sooner than 93 days or no later than 11 days prior to an election. (We start mailing the ballots 27 days prior to the Election).
- If you will be out of town through the early voting period you may request that an early ballot be mailed to the address where you will be staying.
- You may vote in person from 27 days prior to the election up to 5:00 p.m. on the Friday preceding the election at our offices at 1015 Fair St, Room 228 in Prescott or 10 S 6th St in Cottonwood for Vote Center elections. For Vote by Mail elections, in person voting is available until 7:00PM on Election Day.

What are the voting options for military personnel or US citizens residing outside the United States?

What are the voting options for those who are Homebound, residing at a Nursing Home or Assisted Living facility?

What is a "Vote by Mail" election?

What should I do if I make a mistake on my early ballot?

Permanent Early Voting List (http://www.yavapai.us/electionsvr/early-voting/permanent-early-voting-list/)



(https://www.facebook.com/ycrecorderelect/?fref=ts)



(mailto:?subject=Early%20Voting&body=%20thought%20you%20might%20be%20interested%20in%20this...%0Dhttp://www.yavapai.us/electionsvr/early-voting)



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Search MohaveCounty

Recorder

- Home
- Department Directory
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- Recorded Plat Maps
- Online Recorder's System
- Forms
- Form Requirements
- Frequently Asked Questions
- Records Management
 - Overview
 - Retention Schedules
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 - Arizona State Standards and Guidelines for Records
 - Public Records Links
 - Records Management Training
 - Best Practices
- Press Releases
- Voter Registration
 - Registration Figures
 - AZ Voter Registration Form
 - Federal Registration Form
 - Single Early Ballot Request
 - Permanent Early Voting Request
 - PEVL Removal Request Form
 - Search Your Polling Place
 - Search your Voter Registration Information
 - Search Your Early Ballot
 - Search Your Provisional Ballot
 - Military Voters
 - Voter Death Notice Info
 - Public Records Request Form

Recorders Office - Voter Registration Division

Voter Registration
Kim Stewart
Administrative
Supervisor
 P.O. Box 7000
 700 W. Beale Street
 Kingman, AZ 86402-7000
 928-753-0767
 TDD Number 928-753-0769



Email: [Voter.Registration](mailto:Voter.Registration@MohaveCounty.gov)

Follow us on [Facebook](#) & [Twitter!](#)

(Register on line by clicking the button above OR print a registration form [here.](#))

Office Hours
 8 a.m. to 5 p.m.
 Monday through Friday

2016 Important Dates

August 30, 2016 - Primary Election
 August 1, 2016 - Last Day to Register for this election
 August 3, 2016 - Early Voting Begins
 August 19, 2016 - Last Day to Request Early Ballots
 August 26, 2016 - Last Day Early Voting Site open
 August 30, 2016 - Election Day

November 8, 2016 - General Election (Presidential Election)
 October 11, 2016 - Last Day to Register for this election
 October 12, 2016 - Early Voting Begins
 October 28, 2016 - Last Day to Request Early Ballots
 November 4, 2016 - Last Day Early Voting Site open
 November 8, 2016 - Election Day

On All-Mail Elections there are no poll sites open on Election Day
Remember: Election materials cannot be forwarded--make sure Voter Registration has your current address

(On Election day, Polls open 6 a.m. to 7 p.m.)



The Voter Registration Division serves all residents of Mohave County for voter registration and early ballot functions, fulfilling the statutory requirements of the Mohave Co. County Recorder. The Voter Registration Division also opens and maintains "early ballot" satellite offices in Kingman, Bullhead City and Lake Havasu City during local, Primary, and General elections.

Requirements to Register to Vote:

Every resident of the State is qualified to register and vote if he/she:

- IS A CITIZEN OF THE UNITED STATES. (See requirements below)
- Will be eighteen years of age or more on or before the next General Election
- Will have been a resident of this state for twenty-nine days preceding the election Is able to write his/her name or make his/her mark, unless prevented from so doing by physical disability
- Has not been convicted of treason or a felony, unless restored to civil rights
- Has not been adjudicated an incapacitated person as defined in A.R.S. 14-5101.

Voter Registration Requirements:

If this is your first time registering to vote in Arizona or you have moved from another county in Arizona, your voter registration form must also include proof of citizenship or the form will not be processed.

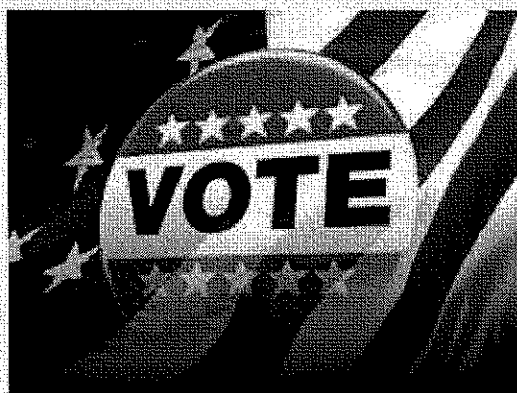
List of acceptable documents to establish your citizenship:

1. Arizona Driver's License number or non-operating identification license number issued after 10/01/1996 (number only; DO NOT send in the card.)
2. A legible photocopy of a driver's license or non-operating identification license issued by another state that identifies United States Citizenship.
3. A legible photocopy of a birth certificate that verifies United States Citizenship.
4. A legible photocopy of your United States Passport containing your name and passport number.
5. A legible photocopy of United States naturalization documents or the number of the certification of naturalization. If only number is provided, it will need to be verified before the voter registration can be processed.
6. A Bureau of Indian Affairs Card Number, Tribal Treaty Card number, or Tribal Enrollment Number (number only; DO NOT send in the card).

DO NOT send originals; only send legible photocopies as outlined above.

The County Recorder performs two essential functions. Processing documents primarily related to real estate transactions and maintaining voter registration records for all jurisdictions within the county and performing related responsibilities as statutorily required.

To contact Voter Registration, please call (520)-432-8354, or (520)-432-8358,
Office Hours 8:00am - 5:00pm Monday-Friday



Important Voter Information

The 90-day notices have been mailed to all Permanent Early Voters. If you are registered in one of the Recognized Parties, and have NO changes to your file, DO NOT return the postcard.

If you are registered as an Independent or have no party affiliation, you MUST choose which party ballot you wish to receive to participate in the Primary Election. If you do not return the postcard or call our office with your choice, you will NOT receive a ballot for the Primary Election.

Important Elections Dates

Primary Election	August 30, 2016
Registration Closes	August 1, 2016
Early Voting Begins	August 4, 2016
Last Day to Request Early Ballot	August 19, 2016

Last Day to Vote Early-On Sight August 26, 2016

General Elections November 8, 2016

Registration Closes October 10, 2016

Early Voting Begins October 13, 2016

Last Day to Request Early Ballot October 28, 2016

Last Day to Vote Early-On Sight November 4, 2016

EARLY VOTING LOCATION :

Cochise County Recorder's Office
1415 Melody Ln Bldg B
Bisbee, AZ 85603

8:00 AM – 5:00 MONDAY-FRIDAY

To check the status of your Voter Registration or Early Ballot, visit www.azsos.gov

Select Language ▼

CONTACT US

Recorder
Christine Rhodes

Locations

Main Office
1415 Melody Lane
Bldg B
Bisbee, AZ 85603
Ph: (520) 432-8350

more...

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 ARIZONA

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No Emergency At This Time

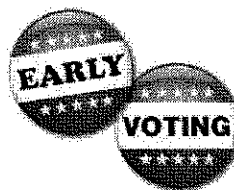
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Early Voting Locations

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- [Provisional Ballot Status](#)
- [Public Request Form](#)
- [Contact Us](#)



Early Voting Sites for the 2016 Primary Election

Precinct/Area	Location	Date	Time
Copper Basin	Winkelman Town Hall	August 16, 2016	10 a.m. - 2 p.m.
Pine - Strawberry	First Baptist Church of Pine	August 17, 2016	10 a.m. - 2 p.m.
Roosevelt	Roosevelt Baptist Church	August 18, 2016	9 a.m. - 11 a.m.
Young	Pleasant Valley Community Center	August 23, 2016	10 a.m. - 2 p.m.
San Carlos	San Carlos Public Library	August 24, 2016	10 a.m. - 2 p.m.
Carrizo - Canyon Day	Canyon Day Jr. High School	August 25, 2016	10 a.m. - 2 p.m.

**Please check back for additional dates and locations.

EXHIBIT 5

Arizona State Legislature Bill Number Search:



Fifty-second Legislature - Second Regular Session change session | printer friendly version

Email a Member | Email Webmaster

Senate House Legislative Council JLBC More Agencies Bills Committees Calendars/News

BILL STATUS OVERVIEW

HB2023

SPONSORS: [UGENTI-RITA P](#)

TITLE: delivery; early ballots; limitation

HOUSE FIRST READ: 01/11/16

COMMITTEES: ASSIGNED COMMITTEES ACTION

[Vote Detail](#) 01/11/16 [ELECT](#) 01/25/16 (4-2-0-1-0) [DP](#)

[Vote Detail](#) 01/11/16 [RULES](#) 02/01/16 (5-3-0-1-0) [C&P](#)

HOUSE SECOND READ: 01/12/16

CONSENT CALENDAR: 02/01/16 4:10 PM Object

MAJORITY CAUCUS: 02/02/16 Y

MINORITY CAUCUS: 02/02/16 Y

COW ACTION 1: DATE ACTION AYES NAYS NV EXC VAC

02/04/16 [DPA](#) 0 0 0 0

AMENDMENTS

Floor Amend to Bill - Ugenti-Rita - passed

Floor Amend to Bill - Clark - failed

MOTION TO AMEND COW 1: DATE AYES NAYS NV VAC

[Vote Detail](#) 02/04/16 21 33 6 0

Rep. Clark motion to amend the COW report to include the Clark Floor Amendment to the Bill

THIRD READ: DATE AYES NAYS NV EXC VAC EMER AMEND RFE 2/3 VOTE RESULT

[Vote Detail](#) 02/04/16 34 23 3 0 Y PASSED

TRANSMIT TO SENATE: 02/05/16

SENATE FIRST READ: 02/16/16

SENATE SECOND READ: 02/17/16

COMMITTEES: ASSIGNED COMMITTEES ACTION

[Vote Detail](#) 02/16/16 [GOV](#) 02/24/16 (4-3-0-0) [DP](#)

02/16/16 [RULES](#) 03/07/16 [PFC](#)

CONSENT CALENDAR: 03/07/16 1:18 PM Object

MAJORITY CAUCUS: 03/08/16 Y

MINORITY CAUCUS: 03/08/16 Y

COW ACTION 1: DATE ACTION AYES NAYS NV EXC VAC

03/09/16 [DP](#) 0 0 0 0

AMENDMENTS

Quezada flr amend (ref Bill) failed

Sherwood flr amend (ref Bill) failed

THIRD READ: DATE AYES NAYS NV EXC VAC EMER AMEND RFE 2/3 VOTE RESULT

[Vote Detail](#) 03/09/16 17 12 1 0 PASSED

TRANSMIT TO HOUSE: 03/09/16

TRANSMITTED TO: GOVERNOR 03/09/16

ACTION: SIGNED 03/09/16

CHAPTER: 5

CHAPTERED VERSION: House Engrossed Version

EXHIBIT 6

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ARIZONA STATE HOUSE OF REPRESENTATIVES

Fifty-second Legislature

Second Regular Session

January 25, 2016

HOUSE ELECTIONS COMMITTEE

Job No. 110152

Pages: 1 - 128

Transcribed by: Bobbi J. Fisher, RPR

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A P P E A R A N C E S

MEMBERS

Ms. Ugenti-Rita, Chairman

Mr. Mesnard, Vice-chairman

Mr. Clark

Mr. Larkin

Mr. Weninger

Mr. Montenegro

Arizona State House of Representatives Session
Conducted on January 25, 2016

8

1 or --

2 REP. WENINGER: No, that's --

3 CHAIRMAN UGENTI-RITA: Okay.

4 REP. MESNARD: That's a tough one to follow,
5 Madame Chair. J.D. Mesnard. I serve with Jeff
6 representing District 17, which is Chandler,
7 Gilbert, and Sun Lakes.

8 A fun fact: I originally had grandiose dreams
9 to write music for film and television in
10 Hollywood, but then I got stuck here so here I am.

11 CHAIRMAN UGENTI-RITA: Okay. Excellent.

12 My name is Michele Ugenti-Rita and District
13 23, which encompasses Scottsdale, Fountain Hills,
14 and Rio Verde, chaired elections here for my second
15 year. I have really enjoyed it.

16 Fun fact: I used to play Rugby for Arizona
17 State University, so...

18 Can you see it? It's obvious, right?

19 Okay. We'll move right into the bill. Thank
20 you, Shannon.

21 MS. CARPENTER: Madame Chair and members,
22 House Bill 2023 stipulates that any person who

Arizona State House of Representatives Session
Conducted on January 25, 2016

9

1 knowingly collects voted or unvoted early ballots
2 from another person is guilty of a class 6 felony
3 unless is person is a family member, a household
4 member, or a caregiver of the voter, an election
5 official, a U.S. Postal worker, any other person
6 permitted by law to transmittal if they are engaged
7 in their official duties.

8 And with that, Madame Chair, I'm available for
9 questions.

10 CHAIRMAN UGENTTI-RITA: Members, questions?

11 Excellent. Since it's mine, I will speak to
12 it for just a second. I know there's a lot of
13 people registered in to speak, so we want to get to
14 them quickly and promptly. We started a little bit
15 behind schedule because I guess the democrats
16 forgot that they had committee today so we had to
17 re-adjust. If anybody knows me, I can re-adjust
18 fast.

19 You know what? This is a real simple bill,
20 and I'm excited to have a conversation about it.
21 To be honest, it's important to anyone who cares
22 about maintaining and protecting the integrity of

Arizona State House of Representatives Session
Conducted on January 25, 2016

10

1 their vote, honestly, irrespective of their party
2 affiliation. It protects all voters. Your vote is
3 something important. It's valuable. It's
4 meaningful. It has great impact. And it should be
5 the responsibility of the voter to turn it in.

6 And so I'm looking forward to having a
7 conversation about it and getting it through the
8 process. So with that, we will start with our
9 first individual wishing to speak.

10 REP. MESNARD: Thank you, madame --

11 CHAIRMAN UGENTI-RITA: You know what? I'm
12 sorry, I didn't mean to interrupt. I just want to
13 make sure, for those who want to speak or are
14 interested, make sure you register in at the kiosk.
15 If you haven't, I think we do have little manual or
16 little pieces of paper that you can fill out and we
17 can get you on, if that's more convenient or if you
18 had forgotten. But we'll start now.

19 REP. MESNARD: Madame chair, first up is Eric
20 Spencer, representing the Secretary of State's
21 Office.

22 MR. SPENCER: Good morning, Madame Chair,

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ARIZONA STATE HOUSE OF REPRESENTATIVES

Fifty-second Legislature

Second Regular Session

February 4, 2016

HOUSE FLOOR SESSION PART 3

THIRD READING #1 CALENDAR

Job No. 110152

Pages: 1 - 56

Transcribed by: Bobbi J. Fisher, RPR

Arizona State House of Representatives Session
Conducted on February 4, 2016

18

1 favor, vote aye. All those opposed, vote nay. Do
2 not vote until you hear the bell.

3 The House will now proceed to vote.

4 Have you all voted?

5 Mr. Borrelli, Representative Cobb,
6 Representative Farnsworth, Representative Meyer,
7 Representative Gabaldon, representative Farnsworth.

8 The clerk will record the vote.

9 By your vote of 57 ayes, zero nays, three not
10 voting, you pass House Bill 2234. Signed in open
11 session, the clerk is instructed to record the
12 actions of the House and convey the bill to the
13 Senate.

14 Okay. Third reading of bills. House Bill
15 2023.

16 READER: House Bill 2023 (Indiscernible).

17 SPEAKER PRO TEM ROBSON: You have heard the
18 third reading of House Bill 2023. All those in
19 favor, vote aye. All those opposed, vote nay. Do
20 not vote until you hear the bell.

21 Have you all voted?

22 Representative McCune Davis.

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 sure everyone has this right, but this bill doesn't
2 present that because there's nothing showing why we
3 should have this.

4 So at this time, sir, I'm going to vote nay
5 and I think it's a violation of people's due
6 process. Thank you very much, sir.

7 SPEAKER PRO TEM ROBSON: Thank you.

8 Representative Benally votes no.

9 Have you all voted?

10 Mr. Montenegro.

11 REP. MONTENEGRO: Thank you, Mr. Speaker Pro
12 Tem. I rise to explain my vote.

13 SPEAKER PRO TEM ROBSON: Please proceed.

14 REP. MONTENEGRO: Thank you, Mr. Speaker.

15 I appreciate the different sentiments and
16 thoughts that have been expressed here today, but I
17 do rise to explain my vote in the sense that we're
18 talking about a very serious matter with this
19 subject, with this bill. I want to appreciate this
20 sponsor and all those who have worked hard in
21 making sure that the issues are worked out.

22 We're talking about elections integrity.

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 We're talking about something that we hold very
2 sacred and very strongly in this country. There
3 are many other countries that that is not the case.
4 Citizens do not have that trust in their election
5 system because of the fraud that there may be. And
6 in this country, we hold it so sacred that we want
7 to make sure that we are being proactive. Some may
8 say it's not happening.

9 In committee, we heard different testimonies
10 about how this is happening. And it is happening
11 here in the state of Arizona. And I think that we
12 owe it to the citizens of this state to make sure
13 that we're doing everything possible to keep that
14 responsibility and to hold that sacred right and
15 duty that we have. So many people have not only
16 sacrificed their life, their service, but paid that
17 ultimate sacrifice so that we can have votes, that
18 we can have elections, and frankly, that we can
19 trust that our government is operating and doing
20 everything possible to protect every individual
21 vote.

22 So I want to thank those that are voting for

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 that bill. We are fighting to protect the
2 sacredness of every vote cast in this state.

3 With that, Mr. Speaker Pro Tem, I vote aye.

4 SPEAKER PRO TEM ROBSON: Mr. Montenegro votes
5 aye.

6 Have you all voted?

7 Representative Clark? Representative Mach?
8 Representative Meyer?

9 REP. MEYER: Thank you, Mr. Speaker Pro Tem.
10 I rise to explain my vote.

11 SPEAKER PRO TEM ROBSON: Please proceed.

12 REP. MEYER: Thank you.

13 Again, here today, we are restricting the
14 ability of certain members of our communities to
15 vote. There are no threats to the integrity of the
16 system. There is not any fraud that I have been
17 told of, and this will disenfranchise certain
18 groups of voters as we have heard today: Those
19 that are disabled, those that are elderly, those
20 that live in rural areas and have to travel large
21 distances just to get to their post office or to
22 their polling place.

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 This is an extreme response to alleged voter
2 fraud, fraud that has not been verified in my
3 significant numbers.

4 And with that, I vote no.

5 SPEAKER PRO TEM ROBSON: Representative Mach
6 votes no. And if you could provide that by
7 electronic means to the clerk's office, that would
8 be appreciated by them. So ordered.

9 Representative Thorpe.

10 REP. THORPE: Mr. Speaker Pro Tem, I rise to
11 explain my vote.

12 SPEAKER PRO TEM ROBSON: Please proceed.

13 REP. THORPE: Long before I was born, the 19th
14 Amendment was ratified by the states providing
15 women with a right to vote. And because of bad
16 actors, bad actors, there are women that are now
17 losing their vote. In other words, they think
18 they're casting a ballot but then their ballot is
19 being annulled by bad actors.

20 We have folks that show up at doors behaving
21 as if they're collection officials, they're
22 election officials collecting ballots. Why are

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 they going through this effort?

2 If they have a list of voters and they have
3 bad intentions, they can simply take the ballots
4 that they collect from one party or the other and
5 throw them in the trash can and deny women the
6 right to vote.

7 They can show up as a ballot place and drop
8 off 150 ballots. These are bad actors.

9 So my challenge to my good friends on the
10 other side of the aisle, you should have reformed
11 this problem. Instead of pushing back against our
12 attempts to reform this problem, you should have
13 reformed this problem. You know it exists. You
14 know there's bad actors out there.

15 UNIDENTIFIED SPEAKER: Point of order.

16 SPEAKER PRO TEM ROBSON: Point of order. You
17 need to rise and tell us what the point of order
18 is.

19 UNIDENTIFIED SPEAKER: Excuse me, point of
20 order, Mr. Chair.

21 Representative Thorpe, with all due respect,
22 we do not feel there are bad actors --

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 SPEAKER PRO TEM ROBSON: Point of order on
2 your --

3 UNIDENTIFIED SPEAKER: To the point all of
4 this is hearsay. He has insulted us by saying that
5 we need to --

6 SPEAKER PRO TEM ROBSON: You're arguing --
7 just explain your point of order.

8 UNIDENTIFIED SPEAKER: I am.

9 SPEAKER PRO TEM ROBSON: No, you're not. I'm
10 trying to help you.

11 And it's to me, not to Mr. Thorpe.

12 UNIDENTIFIED SPEAKER: Excuse me. To you.
13 Excuse me, Mr. Chair, I have never actually done
14 this --

15 SPEAKER PRO TEM ROBSON: That's fine. It's
16 okay.

17 UNIDENTIFIED SPEAKER: -- with such anger,
18 especially.

19 Mr. Chair, he has stated that our party, our
20 side, has known that there has been illegal
21 behavior and that we should have fixed it when we
22 feel this is just a true injustice to the voters.

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 SPEAKER PRO TEM ROBSON: Okay. I think I got
2 the essence of it.

3 You're not out of order, Mr. Thorpe, but I
4 would ask you to possibly shape your argument a
5 little bit differently.

6 REP. THORPE: Thank you, Mr. Speaker Pro Tem,
7 and I do -- I do apologize because it was not my
8 intention to offend anyone.

9 But this is an issue that has come up over and
10 over again, and my comment is if ensuring the
11 quality of offer vote and ensuring that people have
12 the opportunity to cast their vote. I truly wish
13 that this was a bipartisan effort, is what I'm
14 asking for. And, you know, the last time we
15 discussed it, it was like 3 in the morning and
16 there was passion on both sides. I think everyone
17 in this room would agree, we would like everyone to
18 have the opportunity in this state to cast a vote,
19 to be heard at the ballot. And it's an absolute
20 shame if there are people that are being
21 disenfranchised right now as things stand.

22 And I have had election recorders from various

Arizona State House of Representatives Session
Conducted on February 4, 2016

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1 counties come to me and they represent both
2 parties --

3 SPEAKER PRO TEM ROBSON: One minute.

4 REP. THORPE: -- republican and democrat, and
5 they have asked for us to make these changes. And
6 that's why we're attempting to make these changes.
7 Let's all work together to ensure that nobody is
8 disenfranchised.

9 And Mr. Speaker Pro Tem, with that, I vote
10 aye.

11 SPEAKER PRO TEM ROBSON: Mr. Thorpe votes aye.
12 Representative Clark.

13 REP. CLARK: Thank you, Mr. Speaker Pro Tem.
14 I rise to explain my vote.

15 SPEAKER PRO TEM ROBSON: Mr. Clark, just for
16 purposes -- I just want to ask everybody, let's not
17 venture off into the wrong areas or we're all going
18 to be yelling at each other. And that goes across
19 the board. Thank you.

20 REP. CLARK: Mr. Speaker, I rise to explain my
21 vote.

22 SPEAKER PRO TEM ROBSON: Please proceed.

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ARIZONA STATE SENATE
Fifty-second Legislature
Second Regular Session

February 4, 2016

HOUSE FLOOR SESSION PART 2
COMMITTEE OF THE WHOLE #1

Job No. 110152

Pages: 1 - 85

Transcribed by: Bobbi J. Fisher, RPR

Arizona State Senate Session
Conducted on February 4, 2016

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1 not, you know, harvesting or whatever kind of
2 activity people believe is happening.

3 The simple act of helping a family friend or a
4 friend or even a stranger to vote, the most
5 essential right that we have in a democracy. We
6 are making felons of these people. Class 6 felony
7 entails up to a year of prison and \$150,000 fine.
8 It's stunning to me that we are even considering
9 criminalizing, making felons of people who want to
10 carry another person's ballot just to help them
11 vote.

12 And with that, I stand in firm opposition.
13 Thank you.

14 MR. CHAIRMAN: The Chair recognizes
15 Representative Mesnard.

16 Can somebody wake Mesnard up, please?

17 REP. MESNARD: Thanks. Mr. Chairman, I rise
18 to make some comments on this bill.

19 MR. CHAIRMAN: Please proceed.

20 REP. MESNARD: Mr. Chairman, I found this
21 conversation interesting to listen to for the last
22 however long it's been. We had a lengthy

Arizona State Senate Session
Conducted on February 4, 2016

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1 conversation in committee that I would invite
2 members to go back and watch, for those who doubt
3 whether or not this is happening. We had quite a
4 bit of testimony of people describing situations
5 where voter fraudulent activities were happening.
6 And I just want -- in case -- to give you a taste,
7 I want to read something here. It was the last
8 time a bill along these lines was proposed. We had
9 a Maricopa County Elections Director Karen Osborne
10 testifying in committee -- this is before the
11 Senate elections committee at the time -- and she
12 basically said that the equivalent of this bill
13 would help secure ballots. She noted that some
14 voters, including two people in her office,
15 reported people posing as county elections workers
16 coming to their homes, asking who they voted for
17 and asked to take their early ballots. This is a
18 problem, Mr. Chairman. This is a problem.

19 We make it pretty easy to vote. It used to be
20 you had to go to the polls. That was -- and then
21 we said, okay, well, if you can't be around or if
22 you're overseas, we allowed absentee ballots. Now

Arizona State Senate Session
Conducted on February 4, 2016

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1 we say anybody can get an absentee ballot and they
2 have the better part of four weeks to put their
3 ballot back in the mail and get it in.

4 We even have in our constitution immunity -- I
5 bet a lot of people don't this -- immunity when you
6 go to vote. When you're going to and from the
7 post -- the same immunity we have when we're in
8 session, the voters of Arizona have when they're
9 going to and from the polls.

10 So we clearly have placed an emphasis on
11 making it easy to vote, but Mr. Chairman, integrity
12 is more important than hyperconvenience. We've had
13 all these scenarios -- these outrageous, in my
14 opinion, scenarios presented about hypotheticals
15 that could happen out there when we still allow
16 family members and household members and care
17 givers to act on behalf of somebody to get their
18 ballot in if they're able to actually physically
19 put it in the mail themselves.

20 Somebody just testified that it should be your
21 right to turn your ballot over to somebody else
22 because it's personal responsibility. Well, I have

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Conducted on February 4, 2016

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1 two responses to that. What we do at the ballot
2 box affects everybody. So it isn't just about your
3 personal responsibility because it does impact
4 everybody if there is fraud. And I doubt that we
5 would go so far as to say it should be my right to
6 turn my vote over to somebody else. But under that
7 line of thinking, you could. Here, I can't -- I
8 trust your judgment, you go vote on my behalf.
9 It's my right to vote, I'm turning it over to you.
10 What's wrong with that?

11 Mr. Chairman, this bill about maintaining the
12 integrity of the elections process, because if
13 people lose faith in it, then we have nothing. And
14 we are starting to have people lose faith in it
15 because they are seeing these sorts of nefarious
16 activities happening, and if we don't step up, then
17 all of us here who are fighting to get people
18 engaged in the process to push back against voter
19 apathy, it's going to be a lost cause because they
20 don't believe in the process that put us here in
21 the first place.

22 So, Mr. Chairman, I rise in support of House

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Conducted on February 4, 2016

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1 Bill 2023.

2 MR. CHAIRMAN: Thank you very much.

3 The Chair recognizes Representative Plumlee.

4 REP. PLUMLEE: Thank you, Mr. Chair.

5 I would like to make a comment, please.

6 MR. CHAIRMAN: Please proceed.

7 REP. PLUMLEE: In the testimony in the
8 committee that Representative Mesnard referred to,
9 Representative Clark asked people who were
10 testifying -- and it was made clear that reports of
11 said fraud were hearsay and weren't actually
12 proven.

13 And with that, I rise in opposition to the
14 bill. Thank you.

15 MR. CHAIRMAN: Thank you.

16 Is there any further discussion?

17 The Chair recognizes Representative Leach.

18 REP. LEACH: Thank you, Mr. Chairman.

19 I testified on this bill last year and I --

20 MR. CHAIRMAN: Do you want to make a comment,
21 Mr. Leach?

22 REP. LEACH: Yeah, I'm making a comment, thank

Arizona State Senate Session
Conducted on February 4, 2016

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1 you.

2 MR. CHAIRMAN: Please proceed.

3 REP. LEACH: I commented last year on this
4 bill on a comment to this one target area again
5 this year, on the fact that there seems to be a
6 belief that there is not voter fraud happening here
7 in Arizona or across our country. I would argue,
8 with very little research, certainly much less
9 research than you did securing the number of post
10 office boxes in ewe ma county that you could find
11 out all of the fraud cases going back into the 80s.
12 If you want a specific cite, just go to voter fraud
13 in the U.S. documented.

14 Now, we're all on time schedules. I am not
15 going to go through that, but I can assure you that
16 you'll find voter fraud not just an occasional
17 thing in a few states, but you will find it rampant
18 across our country.

19 This bill, like the one last year, as
20 Representative Mesnard pointed out, is to protect
21 the main thing that we have in this country, and
22 that is the vote and the ballot box.

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Conducted on February 4, 2016

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1 And with that, Mr. Chairman, I rise in support
2 of HB 2023.

3 MR. CHAIRMAN: Thank you.

4 Any further discussion?

5 Hearing none, Representative Ugenti-Rita,
6 would you like closing comments?

7 REP. UGENTI-RITA: Mr. Chair, yes.

8 I just wanted to --

9 MR. CHAIRMAN: Please proceed.

10 REP. UGENTI-RITA: Thank you so much,
11 Mr. Chair.

12 You know, we have heard a lot of testimony.
13 We certainly heard a lot of testimony today on the
14 floor as well as in committee. I have heard from
15 other politicians. I have heard from those who are
16 in the business of collecting ballots. I know that
17 Mayor Stanton had a press release on this bill,
18 characterizing it as voter suppression, which I
19 kind of find amusing since he sued to keep the
20 Phoenix and off your elections where you have
21 extremely low turnout, which I think you could
22 characterize as voter suppression.

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1 But what I want to emphasize here is who I
2 didn't hear from or who I haven't heard from are
3 the individuals who rely on someone coming to their
4 door and collecting their ballot. I think that
5 most people, the average voter, understands the
6 responsibility, they like the fact that they're in
7 control, they want to either engage in -- via the
8 mail or at the poll.

9 We heard a lot of testimony but I didn't hear
10 anything to that effect, and I think that's
11 important because one of the litmus tests I use is
12 what does the public think?

13 I also think a lot of the public thinks this
14 is already something that's prohibited because it's
15 not a natural type of activity. It's something
16 that doesn't happen in any other kind of
17 occurrence, this idea that you get people coming to
18 your door to collect a ballot.

19 And one other point here -- and I think it's
20 important to clarify. Fraud is an indirect effect
21 of this. This deals with the collection of a
22 ballot. There's also statute addressing fraud.

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1 There's already a statute addressing fraud. This
2 address the activity of collecting a ballot and it
3 goes to the integrity of the process.

4 And that, I hope you vote yes on the third
5 read. Thank you.

6 MR. CHAIRMAN: Thank you.

7 Any further discussion?

8 Hearing none, the question before you is will
9 the Committee of the Whole rise and report,
10 recommend that House Bill 2023 as amended do pass.
11 All those in favor vote aye.

12 VARIOUS: Aye.

13 MR. CHAIRMAN: All those opposed, vote nay.

14 VARIOUS: Nay.

15 MR. CHAIRMAN: Appears the ayes have it, do
16 have it. So division is called.

17 All right. All those in favor of House Bill
18 2023 as amended, please rise and be counted.

19 Please stand still. They're counting again.

20 Please don't move so that they can get an
21 accurate count.

22 Okay. All those opposed, please rise.

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1 Members, by your vote of 29 ayes, 22 nays, you
2 have returned House Bill 2023 as amended with a
3 do-pass recommendation.

4 Clerk will need the read bill on the calendar.

5 THE CLERK: House 2049 (Indiscernible).

6 MR. CHAIRMAN: The Chair recognizes
7 Representative Stevens.

8 REP. STEVENS: Thank you, Mr. Chair.

9 I move the Committee of the Whole rise and
10 report. The recommended House Bill 2049 do pass.

11 MR. CHAIRMAN: And Mr. Stevens.

12 REP. STEVENS: Thank you, Mr. Chair.

13 I move my floor amendment to House Bill 2049.

14 MR. CHAIRMAN: Explanation.

15 REP. STEVENS: This adds in the counties.

16 MR. CHAIRMAN: Any further discussion?

17 Hearing none, the question before you is the
18 adoption of the Stevens floor amendment. All those
19 in favor, vote aye.

20 VARIOUS: Aye.

21 MR. CHAIRMAN: Opposed, vote nay.

22 Appears the ayes have it, do have it. So

EXHIBIT 7

House Engrossed

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 5
HOUSE BILL 2023

AN ACT

AMENDING SECTION 16-1005, ARIZONA REVISED STATUTES; RELATING TO BALLOT ABUSE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

H.B. 2023

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-1005, Arizona Revised Statutes, is amended to
3 read:

4 16-1005. Ballot abuse; violation; classification

5 A. Any person who knowingly marks a voted or unvoted ballot or ballot
6 envelope with the intent to fix an election for ~~his~~ THAT PERSON'S own benefit
7 or for that of another person is guilty of a class 5 felony.

8 B. It is unlawful to offer or provide any consideration to acquire a
9 voted or unvoted early ballot. A person who violates this subsection is
10 guilty of a class 5 felony.

11 C. It is unlawful to receive or agree to receive any consideration in
12 exchange for a voted or unvoted ballot. A person who violates this
13 subsection is guilty of a class 5 felony.

14 D. It is unlawful to possess a voted or unvoted ballot with the intent
15 to sell the voted or unvoted ballot of another person. A person who violates
16 this subsection is guilty of a class 5 felony.

17 E. A person or entity that knowingly solicits the collection of voted
18 or unvoted ballots by misrepresenting itself as an election official or as an
19 official ballot repository or is found to be serving as a ballot drop off
20 site, other than those established and staffed by election officials, is
21 guilty of a class 5 felony.

22 F. A person who knowingly collects voted or unvoted ballots and WHO
23 does not turn those ballots in to an election official, the United States
24 postal service or any other entity permitted by law to transmit post is
25 guilty of a class 5 felony.

26 G. A person who engages or participates in a pattern of ballot fraud
27 is guilty of a class 4 felony. For the purposes of this subsection, "pattern
28 of ballot fraud" means the person has offered or provided any consideration
29 to three or more persons to acquire the voted or unvoted ballot of a person.

30 H. A PERSON WHO KNOWINGLY COLLECTS VOTED OR UNVOTED EARLY BALLOTS FROM
31 ANOTHER PERSON IS GUILTY OF A CLASS 6 FELONY. AN ELECTION OFFICIAL, A UNITED
32 STATES POSTAL SERVICE WORKER OR ANY OTHER PERSON WHO IS ALLOWED BY LAW TO
33 TRANSMIT UNITED STATES MAIL IS DEEMED NOT TO HAVE COLLECTED AN EARLY BALLOT
34 IF THE OFFICIAL, WORKER OR OTHER PERSON IS ENGAGED IN OFFICIAL DUTIES.

35 I. SUBSECTION H OF THIS SECTION DOES NOT APPLY TO:

36 1. AN ELECTION HELD BY A SPECIAL TAXING DISTRICT FORMED PURSUANT TO
37 TITLE 48 FOR THE PURPOSE OF PROTECTING OR PROVIDING SERVICES TO AGRICULTURAL
38 LANDS OR CROPS AND THAT IS AUTHORIZED TO CONDUCT ELECTIONS PURSUANT TO
39 TITLE 48.

40 2. A FAMILY MEMBER, HOUSEHOLD MEMBER OR CAREGIVER OF THE VOTER. FOR
41 THE PURPOSES OF THIS PARAGRAPH:

H.B. 2023

1 (a) "CAREGIVER" MEANS A PERSON WHO PROVIDES MEDICAL OR HEALTH CARE
2 ASSISTANCE TO THE VOTER IN A RESIDENCE, NURSING CARE INSTITUTION, HOSPICE
3 FACILITY, ASSISTED LIVING CENTER, ASSISTED LIVING FACILITY, ASSISTED LIVING
4 HOME, RESIDENTIAL CARE INSTITUTION, ADULT DAY HEALTH CARE FACILITY OR ADULT
5 FOSTER CARE HOME.
6 (b) "COLLECTS" MEANS TO GAIN POSSESSION OR CONTROL OF AN EARLY BALLOT.
7 (c) "FAMILY MEMBER" MEANS A PERSON WHO IS RELATED TO THE VOTER BY
8 BLOOD, MARRIAGE, ADOPTION OR LEGAL GUARDIANSHIP.
9 (d) "HOUSEHOLD MEMBER" MEANS A PERSON WHO RESIDES AT THE SAME
10 RESIDENCE AS THE VOTER.

PASSED BY THE HOUSE FEBRUARY 4, 2016

PASSED BY THE SENATE MARCH 9, 2016.

APPROVED BY THE GOVERNOR MARCH 9, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 9, 2016.

EXHIBIT 8

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5	BY MS. HARTMAN-TELLEZ	87
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13	4 AZCentral.com article dated August 21, 2015 entitled "Into the Mind: How to turn 'red state' Arizona blue"	73
14	5 Before It's News article dated August 5, 2015 entitled "Democrats in Arizona Have a New Executive Director Sheila Healy"	79
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* * *

1 DEPOSITION OF SHEILA HEALY commenced at 9:01 a.m. on
2 July 14, 2016 at the law offices of SNELL & WILMER, ONE
3 ARIZONA CENTER, 400 EAST VAN BUREN, PHOENIX, ARIZONA,
4 before MICHAELA HERMAN DAVIS, a Certified Reporter, in and
5 for the County of Maricopa, State of Arizona.

6

7

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* * *

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A P P E A R A N C E S

10 FOR THE INTERVENOR-DEFENDANTS ARIZONA REPUBLICAN PARTY,
11 BILL GATES, SUZANNE KLAPP, DEBBIE LESKO, AND TONY RIVERO:

12

SNELL & WILMER

13

BY: MS. SARA J. AGNE

14

ONE ARIZONA CENTER

15

400 EAST VAN BUREN

16

PHOENIX, ARIZONA 85004-2202

17

18 FOR DEFENDANTS ATTORNEY GENERAL, SECRETARY OF STATE, AND
19 THE SECRETARY OF STATE'S OFFICE:

20

OFFICE OF THE ATTORNEY GENERAL

21

BY: MS. KAREN J. HARTMAN-TELLEZ

22

STATE OF ARIZONA

23

1275 WEST WASHINGTON STREET

24

PHOENIX, ARIZONA 85007

25

26 FOR MARICOPA COUNTY:

27

MARICOPA COUNTY ATTORNEY'S OFFICE

28

BY: MS. ANDREA CUMMINGS

29

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SUITE 1100

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PHOENIX, ARIZONA 85004

32

33

34

35

(Continued.)

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6 WASHINGTON DC 20005-3960

7 PERKINS COIE, LLP
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12 FOR INTERVENOR-PLAINTIFF BERNIE 2016, INC.:

13 COPPERSMITH BROCKELMAN PCL
14 BY: MR. ANDREW S. GORDON
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16 SUITE 1200
17 PHOENIX, ARIZONA 85004

18

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1 Phoenix, Arizona
2 July 14, 2016
3 9:01 a.m.

4 SHEILA HEALY, called as a witness herein,
5 having been first duly sworn, was examined and testified
6 as follows:

7 * * *

8 E X A M I N A T I O N

9 BY MS. AGNE:

10 Q. Ms. Healy, I'm Sara Agne. We met a bit earlier.
11 I represent the Arizona Republican Party in the matter of
12 Feldman, et al., versus Arizona Secretary of State, et al.

13 I'm here to ask you some questions today because
14 you gave a declaration in this matter. And I understand
15 you're the executive director of the Arizona Democratic
16 Party who is also a plaintiff in the matter; is that
17 correct?

18 A. Yes.

19 MS. CALLAIS: Sara, Amanda Callais. Can I
20 just interject and just for the record state that
21 Ms. Healy was noticed in her personal capacity as a
22 witness in the case and not on behalf of the Arizona
23 Democratic Party as a representative.

24 MS. AGNE: Okay. Understood.

25 MS. CALLAIS: She'll be testifying today in

1 Q. Does the party educate voters about the proper
2 way to mail in a ballot, an early voting ballot?

3 A. Yes.

4 Q. Do you know the specifics of the information
5 offered on that?

6 A. Yes. We tell them to fill out their form
7 completely and mail it in.

8 Q. And when you mention their form, you mean their
9 ballot?

10 A. Their -- right now we're primarily focussed on
11 encouraging people to send in a permanent early voter list
12 application.

13 Q. Okay. At election time in the weeks before the
14 election when ballots are being filled out, does the party
15 encourage voters to fill those out and mail those in?

16 A. We are planning on it.

17 Q. And then for the voter registration activities
18 you described, HB2023 will not impact those, to your
19 knowledge?

20 A. Impact the voter registration activities?

21 Q. Correct.

22 A. No, not to my knowledge.

23 Q. And the get out the vote activities that you
24 described, HB2023 will not impact those?

25 A. Well, that, I don't know because we -- I have no

1 way of knowing if and how many voters could be impacted by
2 our inability to offer to mail their ballot for them. We
3 imagine that there are those voters and -- yes.

4 Q. For previous elections in Arizona, the May 17th
5 special election for example, were there voters that asked
6 the party to mail in their ballots -- or to turn in their
7 ballots for them that you recall?

8 A. Yes.

9 Q. And what were they told?

10 A. I personally recall a voter dropping off two
11 ballot applications -- I'm sorry. Now I'm not totally
12 remembering.

13 I personally recall that a voter in some way
14 asked us while I was sitting at the front desk or towards
15 the front desk to mail in ballots for them, but I don't
16 recall if it was for the May 17th election.

17 Q. And did the party do that for the voter?

18 A. I don't recall.

19 Q. Do you recall any voters asking the party to
20 mail in a presidential preference election ballot?

21 A. I don't recall.

22 Q. In paragraph 5, the first sentence of your
23 declaration, you also mention voter protection activities.
24 What sort of activities are those?

25 A. Typically, in other states that I've worked in

1 polling place locator services to voters?

2 A. Yes.

3 Q. And are you aware if any government agencies in
4 the state provide polling place locator information to
5 voters?

6 A. Yes.

7 Q. Do you know what those are?

8 A. I know that the Maricopa County elections
9 website has a polling place locator. And I believe the
10 secretary of state's website does as well.

11 Q. Do counties provide notice of polling place
12 locations when they send out early -- not early ballots,
13 sample ballots?

14 MS. CALLAIS: Objection; form.

15 THE WITNESS: I can't speak to how that
16 process has worked in past election cycles. And I don't
17 know what their plan is to roll that out this year.

18 BY MS. HARTMAN-TELLEZ:

19 Q. HB2023 has not prohibited the Arizona Democratic
20 Party from talking to people about issues and candidates
21 for the upcoming elections, has it?

22 A. No.

23 Q. And it won't prohibit you from doing that in the
24 future?

25 A. No, it won't prohibit us from talking to people

1 about issues and candidates.

2 Q. And HB2023 has not prohibited the Arizona
3 Democratic Party from assisting citizens with registering
4 to vote for upcoming elections, has it?

5 A. No. We'll still be able to register people to
6 vote.

7 Q. So also in the future, you'll be able to assist?
8 HB2023 will not prohibit that?

9 A. No.

10 Q. And HB2023 has not prohibited the Arizona
11 Democratic Party from helping citizens to request early
12 ballots, has it?

13 A. No. We can still encourage people to request
14 early ballots, yes.

15 Q. And you can tell them how they can get on the
16 permanent early voting list?

17 A. Yes.

18 Q. And if they don't want to be on the permanent
19 early voting list but they still want an early ballot how
20 they can request one for a particular election?

21 A. We can still tell them that, yes.

22 Q. Do you assist voters who request assistance in
23 filling out their ballots?

24 MS. CALLAIS: Objection; form.

25 THE WITNESS: Yes. If somebody is disabled

1 and unable to fill out their ballot and specifically asks
2 one of our staff members or volunteers for help, I believe
3 as long as they sign, they are able to sign the affidavit
4 on the back of the form, that would be within the confines
5 of the law.

6 BY MS. HARTMAN-TELLEZ:

7 Q. And we're talking about early ballots; correct?

8 A. Yes.

9 Q. And HB2023 won't prohibit you from providing
10 that assistance; correct?

11 A. No, I don't believe so.

12 Q. In paragraph 27 of your declaration, you state
13 that: "HB2023 will prohibit ADP from helping early voters
14 ensure that their ballot is counted in the upcoming 2016
15 general election and other future elections"; is that
16 correct?

17 A. Yes.

18 Q. But HB2023 will not prohibit ADP from telling
19 voters what the deadline is for returning early ballots by
20 mail, will it?

21 A. No, but "helping" here is defined in a broader
22 context than that.

23 Q. HB2023 will not prohibit the ADP from telling
24 voters the several ways that they may return their early
25 ballots, will it?

1 A. No, it won't prohibit us from talking to them.

2 Q. And HB2023 will not prohibit the ADP from
3 telling voters that early ballots returned by mail will be
4 counted if they are returned on time, will it?

5 A. No, it won't prohibit us from doing that.

6 Q. And it will not prohibit the ADP from telling
7 voters how they may vote early other than by mail-in
8 ballot, will it?

9 A. No.

10 Q. And HB2023 will not prohibit the ADP from
11 assisting voters who are eligible to obtain assistance in
12 casting a ballot pursuant to ARS 16-549, which is
13 Exhibit 3 or 4 regarding special election boards?

14 MS. CALLAIS: Objection; form.

15 MS. HARTMAN-TELLEZ: It's Exhibit 3.

16 BY MS. HARTMAN-TELLEZ:

17 Q. And I know you weren't terribly familiar with
18 that law when you first saw it, but you do understand that
19 it provides for special election boards for disabled or
20 ill voters; correct?

21 A. Yes. So I'm sorry, could you repeat the
22 question?

23 Q. Sure.

24 HB2023 will not prohibit the Arizona Democratic
25 Party from assisting voters who are eligible to obtain

1 assistance in casting a ballot pursuant to that law;
2 correct?

3 MS. CALLAIS: Same objection.

4 THE WITNESS: Well, it wouldn't prohibit us
5 from telling them about special election boards, but it
6 would still -- it would still inhibit our ability to
7 physically help them mail in their ballot.

8 BY MS. HARTMAN-TELLEZ:

9 Q. HB2023 will not prohibit the Arizona Democratic
10 Party from telling voters who have mobility impairments
11 that they may request curbside voting at their polling
12 place, will it?

13 A. No, we'd still be able to tell them about it.

14 Q. And HB2023 will not prohibit the Arizona
15 Democratic Party from telling voters who have mobility
16 impairments that if they are able to get a ride to the
17 polling place, that they may ask a poll worker to come out
18 of the polling place to retrieve their sealed early
19 ballot, will it?

20 MS. CALLAIS: Objection; form.

21 THE WITNESS: If they can find a polling
22 worker, yes.

23 MS. HARTMAN-TELLEZ: Well -- okay.

24 I have no further questions.

25 MS. CUMMINGS: I have just a couple.

EXHIBIT 9

CHOOSE AN ELECTION

[PRIMARY ELECTION \(../CANDIDATES/PRIMARYCANDIDATES.HTM\)](#)

[GENERAL ELECTION \(../BALLOTMEASURE/BALLOTMEASURELIST.HTM\)](#)

PRIMARY ELECTION

[Federal Candidates](#)

[Statewide Candidates](#)

[Legislative Candidates](#)

[Full Candidate List \(CSV\)
\(Candidates.csv\)](#)

STATE SENATOR - DISTRICT 1

REPUBLICAN CANDIDATES



FANN, KAREN

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 2

REPUBLICAN CANDIDATES



KAIS, SHELLEY

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



DALESSANDRO, ANDREA

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 3

DEMOCRATIC CANDIDATES



CAJERO BEDFORD, OLIVIA

[CANDIDATE INFO](#)



STATE SENATOR - DISTRICT 4

DEMOCRATIC CANDIDATES



OTONDO, LISA

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 5

REPUBLICAN CANDIDATES



BORRELLI, SONNY

[CANDIDATE INFO](#)



GOULD, RON

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 6

REPUBLICAN CANDIDATES



ALLEN, SYLVIA TENNEY

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



BAGLEY, NIKKI CHECK

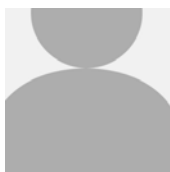
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STATE SENATOR - DISTRICT 7

REPUBLICAN CANDIDATES



BEGODY-BEGAY, CANDACE



(OFF THE BALLOT)

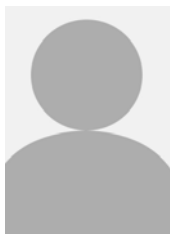
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DEMOCRATIC CANDIDATES



PESHLAKAI, JAMESCITA

CANDIDATE INFO



BEGAY, STEVEN

CANDIDATE INFO

STATE SENATOR - DISTRICT 8

REPUBLICAN CANDIDATES



PRATT, FRANK

CANDIDATE INFO

DEMOCRATIC CANDIDATES



MCGUIRE, BARBARA

CANDIDATE INFO

STATE SENATOR - DISTRICT 9

DEMOCRATIC CANDIDATES



FARLEY, STEVE

CANDIDATE INFO



STATE SENATOR - DISTRICT 10

REPUBLICAN CANDIDATES



PHELPS, RANDALL

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



BRADLEY, DAVID

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 11

REPUBLICAN CANDIDATES



SMITH, STEVE

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



ATCHUE, RALPH

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 12

REPUBLICAN CANDIDATES



PETERSEN, WARREN

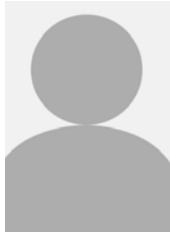
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LINDBLOM, JIMMY

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



BROWN, ELIZABETH

CANDIDATE INFO

STATE SENATOR - DISTRICT 13

REPUBLICAN CANDIDATES



MONTENEGRO, STEVE

CANDIDATE INFO



GONZALES, WILLIAM
(WITHDRAWN)

CANDIDATE INFO



LANDIS, DIANE

CANDIDATE INFO

STATE SENATOR - DISTRICT 14

REPUBLICAN CANDIDATES



GRIFFIN, GAIL

CANDIDATE INFO

DEMOCRATIC CANDIDATES



ALVAREZ, JAIME

CANDIDATE INFO

STATE SENATOR - DISTRICT 15

REPUBLICAN CANDIDATES



BARTO, NANCY

CANDIDATE INFO

DEMOCRATIC CANDIDATES



MACBETH, TONYA K

CANDIDATE INFO

STATE SENATOR - DISTRICT 16

REPUBLICAN CANDIDATES



FARNSWORTH, DAVID CHRISTIAN

CANDIDATE INFO

DEMOCRATIC CANDIDATES



PRIOR, SCOTT

CANDIDATE INFO

STATE SENATOR - DISTRICT 17

REPUBLICAN CANDIDATES



YARBROUGH, STEVE

CANDIDATE INFO

DEMOCRATIC CANDIDATES





WEICHERT, STEVEN

CANDIDATE INFO

STATE SENATOR - DISTRICT 18

REPUBLICAN CANDIDATES



DIAL, JEFF

CANDIDATE INFO



SCHMUCK, FRANK

CANDIDATE INFO

DEMOCRATIC CANDIDATES



BOWIE, SEAN

CANDIDATE INFO

STATE SENATOR - DISTRICT 19

DEMOCRATIC CANDIDATES



CONTRERAS, LUPE CHAVIRA

CANDIDATE INFO

STATE SENATOR - DISTRICT 20

REPUBLICAN CANDIDATES



YEE, KIMBERLY

CANDIDATE INFO

DEMOCRATIC CANDIDATES





HERRERA, LARRY

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 21

REPUBLICAN CANDIDATES



LESKO, DEBBIE

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 22

REPUBLICAN CANDIDATES



BURGES, JUDY

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



MUSCATO, MICHAEL

[CANDIDATE INFO](#)

STATE SENATOR - DISTRICT 23

REPUBLICAN CANDIDATES

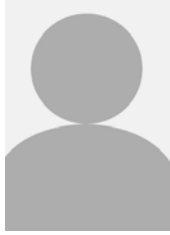


KAVANAGH, JOHN

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STATE SENATOR - DISTRICT 24

DEMOCRATIC CANDIDATES



HOBBS, KATIE

CANDIDATE INFO

STATE SENATOR - DISTRICT 25

REPUBLICAN CANDIDATES



WORSLEY, BOB

CANDIDATE INFO



SMALL, ITASCA (WRITE-IN CANDIDATE)

CANDIDATE INFO

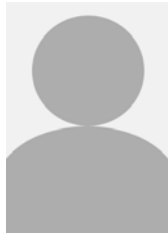
STATE SENATOR - DISTRICT 26

DEMOCRATIC CANDIDATES



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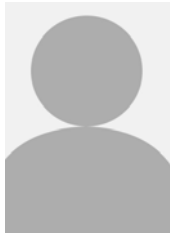
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LUCIER, DAVID

CANDIDATE INFO

LIBERTARIAN CANDIDATES



WILL, CHRIS (WRITE-IN CANDIDATE)

CANDIDATE INFO

STATE SENATOR - DISTRICT 27

DEMOCRATIC CANDIDATES



MIRANDA SAENZ, MARITZA

CANDIDATE INFO



MIRANDA, CATHERINE

CANDIDATE INFO

STATE SENATOR - DISTRICT 28

REPUBLICAN CANDIDATES



BROPHY MCGEE, KATE

CANDIDATE INFO

DEMOCRATIC CANDIDATES



MEYER, ERIC

CANDIDATE INFO

STATE SENATOR - DISTRICT 29

REPUBLICAN CANDIDATES



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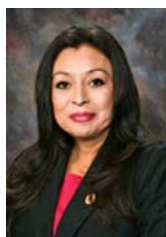
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DEMOCRATIC CANDIDATES



QUEZADA, MARTÍN

CANDIDATE INFO



HERNÁNDEZ, LYDIA

CANDIDATE INFO

STATE SENATOR - DISTRICT 30

REPUBLICAN CANDIDATES



LYON, JOHN

CANDIDATE INFO

DEMOCRATIC CANDIDATES



MEZA, ROBERT

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 1

REPUBLICAN CANDIDATES



DAVIS, CHIP

CANDIDATE INFO



CAMPBELL, NOEL

CANDIDATE INFO



STRINGER, DAVID

CANDIDATE INFO

DEMOCRATIC CANDIDATES



PIERSON, PETER

CANDIDATE INFO

GREEN CANDIDATES



KNAUER, HARYAKSHA GREGOR

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STATE REPRESENTATIVE - DISTRICT 2

REPUBLICAN CANDIDATES





ACKERLEY, JOHN CHRISTOPHER

CANDIDATE INFO

DEMOCRATIC CANDIDATES



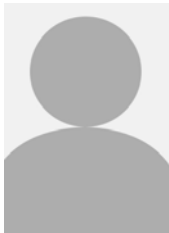
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BAUMANN, AARON

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HERNANDEZ, DANIEL

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 3

DEMOCRATIC CANDIDATES



SALDATE, MACARIO

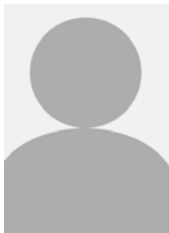
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CANDIDATE INFO

GREEN CANDIDATES

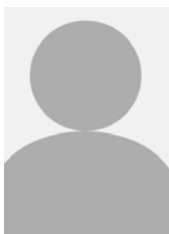


CIZEK III, EDWARD J. "TREY"

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 4

REPUBLICAN CANDIDATES



HOPKINS, RICHARD (WRITE-IN)

CANDIDATE INFO

DEMOCRATIC CANDIDATES



RUBALCAVA, JESUS

CANDIDATE INFO



FERNANDEZ, CHARLENE R.

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 5

REPUBLICAN CANDIDATES



MOSLEY, PAUL

CANDIDATE INFO



MEDRANO, SAM

CANDIDATE INFO



JONES, JENNIFER

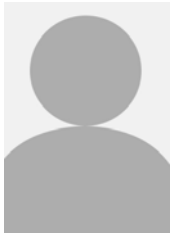
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COBB, REGINA

CANDIDATE INFO

DEMOCRATIC CANDIDATES



WEISSER, BETH

CANDIDATE INFO

GREEN CANDIDATES



BIASIUCCI, LEO

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 6

REPUBLICAN CANDIDATES





BARTON, BRENDA

CANDIDATE INFO



THORPE, BOB

CANDIDATE INFO

DEMOCRATIC CANDIDATES



MARTINEZ, ALEX

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 7

DEMOCRATIC CANDIDATES



DESCHEENIE, ERIC

CANDIDATE INFO



BENALLY, WENONA

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 8

REPUBLICAN CANDIDATES



SHOPE, THOMAS "T.J."

CANDIDATE INFO



COOK, DAVID

CANDIDATE INFO

DEMOCRATIC CANDIDATES



CASILLAS, CARMEN

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 9

REPUBLICAN CANDIDATES





HENDERSON, ANA

CANDIDATE INFO

DEMOCRATIC CANDIDATES



FRIESE, RANDALL "RANDY"

CANDIDATE INFO



KOPEC, MATT

CANDIDATE INFO



POWERS HANNLEY, PAMELA

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 10

REPUBLICAN CANDIDATES



CLODFELTER, TODD

CANDIDATE INFO

DEMOCRATIC CANDIDATES



FROGGE, COURTNEY

CANDIDATE INFO



MACH, STEFANIE

CANDIDATE INFO



ENGEL, KIRSTEN

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 11

REPUBLICAN CANDIDATES



FINCHEM, MARK

CANDIDATE INFO



LEACH, VENDEN "VINCE"

CANDIDATE INFO

DEMOCRATIC CANDIDATES



HAMMOND, CORIN

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 12

REPUBLICAN CANDIDATES



LEWIS, LACINDA

CANDIDATE INFO



GRANTHAM, TRAVIS

CANDIDATE INFO



FARNSWORTH, EDDIE

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 13

REPUBLICAN CANDIDATES



KOUNS, RAY

CANDIDATE INFO



MITCHELL, DARIN

CANDIDATE INFO



SHOOTER, DON

CANDIDATE INFO



DEMOCRATIC CANDIDATES



GRAVES, IISHA

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 14

REPUBLICAN CANDIDATES



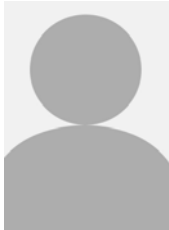
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CANDIDATE INFO



SIZER, ANTHONY

CANDIDATE INFO



JOHN, DREW

CANDIDATE INFO



BARGER, DENNIS

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DEMOCRATIC CANDIDATES



HOLMES, MIKE

CANDIDATE INFO



LINDSTROM, JASON

CANDIDATE INFO

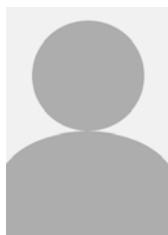
STATE REPRESENTATIVE - DISTRICT 15

REPUBLICAN CANDIDATES



CARTER, HEATHER

CANDIDATE INFO



ALLEN, JOHN

CANDIDATE INFO

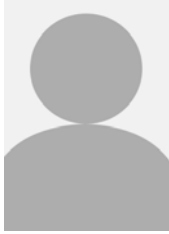
DEMOCRATIC CANDIDATES



DWYER, BRANDON

CANDIDATE INFO

LIBERTARIAN CANDIDATES



MCCORMICK, KEVIN (WRITE-IN CANDIDATE)

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 16

REPUBLICAN CANDIDATES



FILLMORE, JOHN

CANDIDATE INFO



NATIVIO, JUDAH
(OFF THE BALLOT)

CANDIDATE INFO



COLEMAN, DOUG

CANDIDATE INFO



TOWNSEND, KELLY

CANDIDATE INFO



STEVENS, ADAM

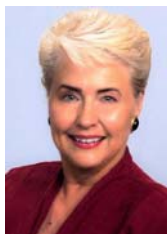
CANDIDATE INFO

DEMOCRATIC CANDIDATES



PRIOR, CARA

CANDIDATE INFO



STINARD, SHARON

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 17

REPUBLICAN CANDIDATES



MESNARD, J.D.

[CANDIDATE INFO](#)



WENINGER, JEFF

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



PAWLIK, JENNIFER

[CANDIDATE INFO](#)

STATE REPRESENTATIVE - DISTRICT 18

REPUBLICAN CANDIDATES



ROBSON, BOB

[CANDIDATE INFO](#)



NORGAARD, JILL

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DEMOCRATIC CANDIDATES



EPSTEIN, DENISE "MITZI"

[CANDIDATE INFO](#)

GREEN CANDIDATES

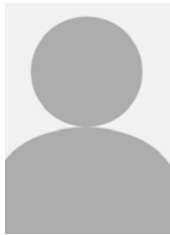


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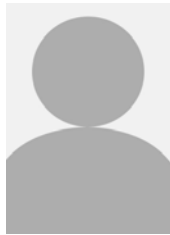
STATE REPRESENTATIVE - DISTRICT 19

DEMOCRATIC CANDIDATES



CARDENAS, MARK

[CANDIDATE INFO](#)



ESPINOZA, DIEGO

[CANDIDATE INFO](#)

STATE REPRESENTATIVE - DISTRICT 20

REPUBLICAN CANDIDATES



BOYER, PAUL

[CANDIDATE INFO](#)



KERN, ANTHONY

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



GILFILLAN, CHRISTOPHER "CHRIS"

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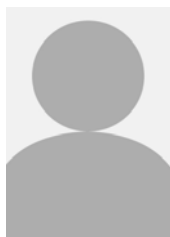
STATE REPRESENTATIVE - DISTRICT 21

REPUBLICAN CANDIDATES



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RIVERO, TONY

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DEMOCRATIC CANDIDATES

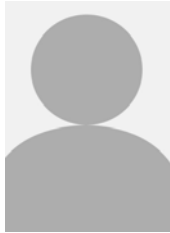


RASMUSSEN-LACOTTA, DEANNA

[CANDIDATE INFO](#)

STATE REPRESENTATIVE - DISTRICT 22

REPUBLICAN CANDIDATES



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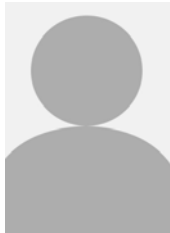
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DEMOCRATIC CANDIDATES



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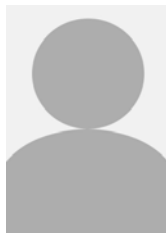
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REPUBLICAN CANDIDATES



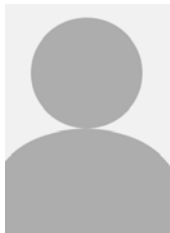
LAWRENCE, JAY

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LETTIERI, ROBERT
(WITHDRAWN)

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UGENTI-RITA, MICHELLE

[CANDIDATE INFO](#)

DEMOCRATIC CANDIDATES



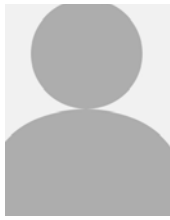
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STATE REPRESENTATIVE - DISTRICT 24

REPUBLICAN CANDIDATES





ALGER, DAVID (WRITE-IN CANDIDATE)

CANDIDATE INFO

DEMOCRATIC CANDIDATES



ALSTON, LELA

CANDIDATE INFO



CLARK, KEN

CANDIDATE INFO

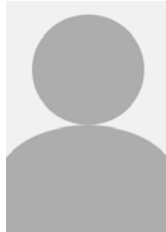
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REPUBLICAN CANDIDATES



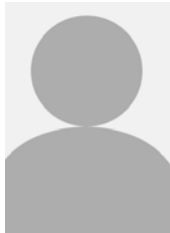
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GROEN, ROSS

CANDIDATE INFO



BOWERS, RUSSELL W "RUSTY"

CANDIDATE INFO

DEMOCRATIC CANDIDATES

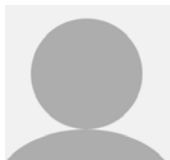


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STATE REPRESENTATIVE - DISTRICT 26

REPUBLICAN CANDIDATES

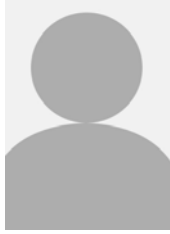


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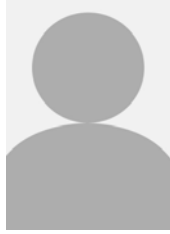


DEMOCRATIC CANDIDATES



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CANDIDATE INFO



SALMAN, ATHENA

CANDIDATE INFO



PLUMLEE, CELESTE

CANDIDATE INFO



MARTINEZ, MICHAEL

CANDIDATE INFO

GREEN CANDIDATES



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CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 27

DEMOCRATIC CANDIDATES



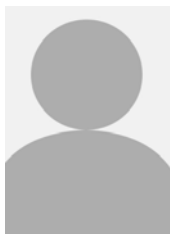
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RIOS, REBECCA

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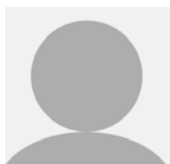
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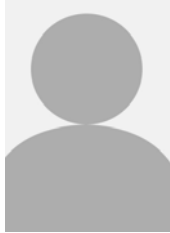
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CANDIDATE INFO

LIBERTARIAN CANDIDATES



PEPITON, ROBERT (WRITE-IN CANDIDATE)

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 28

REPUBLICAN CANDIDATES



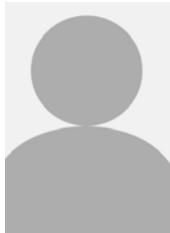
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CANDIDATE INFO



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CANDIDATE INFO



MORALES, MATT

CANDIDATE INFO



GUTIER, ALBERTO III

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SYMS, MARIA

CANDIDATE INFO

DEMOCRATIC CANDIDATES



BUTLER, KELLI

CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 29

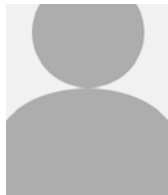
REPUBLICAN CANDIDATES





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CANDIDATE INFO



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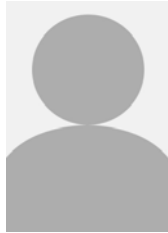
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DEMOCRATIC CANDIDATES



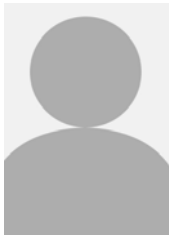
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CANDIDATE INFO



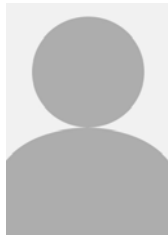
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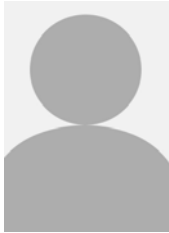
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CANDIDATE INFO

STATE REPRESENTATIVE - DISTRICT 30

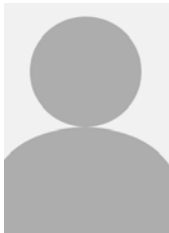
REPUBLICAN CANDIDATES



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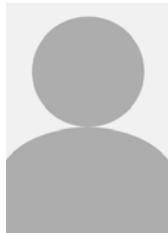
CANDIDATE INFO

DEMOCRATIC CANDIDATES



LARKIN, JONATHAN

CANDIDATE INFO



MARTINEZ, RAY

CANDIDATE INFO





NAVARRETE, OTONIEL "TONY"

CANDIDATE INFO

EXHIBIT 10

Atkinson-Baker Court Reporters
www.depo.com

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
(Phoenix Division)

-----X	:	
	:	
LESLIE FELDMAN, et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	CV-16-1065-PHX-DLR
	:	
ARIZONA SECRETARY OF STATE'S	:	
OFFICE, et al.,	:	
	:	
Defendants.	:	
	:	
-----X	:	

DEPOSITION OF
ALLAN J. LICHTMAN
WASHINGTON, D.C.
FRIDAY, JULY 8, 2016

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BY: KIRK A. STURGES
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
(Phoenix Division)

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	:	
LESLIE FELDMAN, et al.,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	CV-16-1065-PHX-DLR
	:	
ARIZONA SECRETARY OF STATE'S	:	
	:	
OFFICE, et al.,	:	
	:	
Defendants.	:	
	:	
-----x	:	

WASHINGTON, D.C.

FRIDAY, JULY 8, 2016

DEPOSITION OF: ALLAN J. LICHTMAN
called for examination by counsel for Defendants and
Intervenor Defendants, pursuant to notice, at the
offices of Perkins Coie, LLP, 700 13th Street, NW,
Seventh Floor, Denali Conference Room, Washington,
D.C., commencing at 8:58 a.m. and concluding at
4:09 p.m., before Kirk A. Sturges, a Notary Public for
the District of Columbia.

Allan J. Lichtman
July 8, 2016

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ON BEHALF OF THE DEFENDANTS:

8

On behalf of Defendants Arizona Secretary of State's
9 Office and Michele Reagan:

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On behalf of Intervenor Defendants Arizona Republican
15 Party; Bill Gates; Suzanne Klapp; Debbie Lesko; and
Tony Rivero:

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(APPEARANCES CONTINUE ON NEXT PAGE.)

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1 A P P E A R A N C E S: (CONT.)

2

3 ON BEHALF OF DEFENDANTS: (CONT.)

4 On behalf of Defendants Maricopa County Board of
5 Supervisors; Denny Barney; Andy Kunasek; Clint
6 Hickman; Steve Gallardo; Maricopa County Recorder and
Elections Department; Helen Purcell; and Karen
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WITNESS: ALLAN J. LICHTMAN

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P R O C E E D I N G S

MS. FROST: My name is Elisabeth Frost. I'm an attorney with Perkins Coie. I'm a lawyer for the original plaintiffs in this action. I'll be defending this deposition today.

MR. AHLER: Colin Ahler from Snell and Wilmer. I'm here on behalf of Intervenor Defendants Arizona Republican Party; Bill Gates; Suzanne Klapp; Debbie Lesko; and Tony Rivero.

MR. DRISCOLL-MacEACHRON: This is Jim Driscoll-MacEachron from the Arizona Attorney General's Office on behalf of Secretary of State Michele Reagan and Attorney General Mark Brnovich.

MS. CONNOR: This is Colleen Connor with the Maricopa County Attorneys Office representing the Maricopa County defendants.

MR. DRISCOLL-MacEACHRON: Dr. Lichtman, because we just started, I, of course, now have a technical issue with the computer. So, if you would, give me just a moment. I need to switch screens here.

THE WITNESS: Don't worry. I'm not going

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1 from the normal sequence followed in the State of
2 Arizona.

3 Q In order to determine something is a
4 deviation from the normal procedures, you have to
5 know what the normal procedure is first. Correct?

6 A Right. That's why I looked at how often
7 legislation was withdrawn, and it was under
8 one percent of the time. So, indeed, I did look at
9 whether or not that was an unusual procedural step.

10 Q You are referring to a bill that was not
11 2023. Correct?

12 A Yes. It's part of, again, the procedural
13 sequence leading up to 2023. That's right.

14 Q So where do you begin the procedural
15 sequence for 2023, if not with 2023?

16 A Well, let me see what I've got here.

17 I think for 2023 -- which was finally
18 enacted after all of this -- specifically, in the
19 enactment -- except for the going along party lines,
20 which I'm not suggesting is a procedural deviation --
21 the critical deviations for HB 2023 was substantive.

22 Q So there are no procedural deviations

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1 with regard to 2023 itself?

2 A Not that I'm aware of but certainly there
3 are procedural deviations in the process leading up
4 to it.

5 Q And by that process, you are referring to
6 previous bills. Correct?

7 A Not just to previous bills but to action
8 taken by the legislature with respect to those
9 previous bills.

10 For example, if, in fact, the legislature
11 had not repealed its own bill rather than submitting
12 it to referendum -- and obviously, they were worried
13 about it being voted down or they wouldn't have done
14 that -- if, in fact, the voters had voted down 2305,
15 you wouldn't have 2323.

16 Q So let's start with the first procedural
17 deviation you identify, which was with the withdrawal
18 in 2011 of a portion of SB 1412.

19 A Yes.

20 Q Are you aware that the Department of
21 Justice provides for withdrawals in its regulations?

22 A Yes. You can withdraw at any time, but

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1 Q Once a state comes under preclearance, it
2 stays under preclearance without an additional
3 assessment of the policies and procedures it uses.
4 Correct?

5 MS. FROST: Objection to form.

6 THE WITNESS: Again, I'm not a lawyer;
7 but I believe a state can try to bail out, too.

8 BY MR. DRISCOLL-MacEACHRON:

9 Q Absent bailout, the state remains
10 precleared based on its initial inclusion. Correct?

11 A I'm not sure of the legal status of the
12 state once -- if and when it bails out. I'm not sure
13 any state has ever bailed out.

14 Q And again, without bailout, once you are
15 under the preclearance regime, you stay under the
16 preclearance regime. Correct?

17 A That's my understanding.

18 Q But that was based on policies and
19 procedures as they were assessed in 1975?

20 MS. FROST: Objection to form.

21 THE WITNESS: That's when it went under
22 preclearance. And it has not bailed out.

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1 A One, two, three, four -- on a quick
2 count, it looks like five.

3 Q That's what I see, as well.

4 And the first one from 1973, under
5 "Notes," it says withdrawn in 1974. Correct?

6 A Yes.

7 Q The other four statewide objections all
8 involved redistricting. Correct?

9 A I'll have to look. I believe that's
10 correct, but let me make sure.

11 That is correct.

12 Q So there is not a single objection listed
13 to a statewide practice involving registration or any
14 voting procedure. Correct?

15 A That is correct, with the proviso that,
16 of course, HB -- the provision regarding ballot
17 gathering and collection from the 2011 legislation
18 was withdrawn; so, there was no opportunity for
19 justice to decide whether to interpose an objection
20 or not.

21 Q You first note the objection to the 1990
22 redistricting plan?

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1 Q Do you have any evidence that the
2 literacy test in Arizona was in effect between 1970
3 and 1972?

4 A I don't know one way or the other. I
5 don't see how it could have been, but it was not
6 formally repealed until later.

7 Q You next cite a 1998 proposition making
8 English the official language of Arizona.

9 A That's correct.

10 Q And you note that that was resolved by
11 several courts. Correct?

12 A That is correct.

13 Q Those resolutions were all under the
14 First Amendment. Correct?

15 MS. FROST: Objection to form.

16 THE WITNESS: "Those resolutions." I
17 don't know what that means.

18 BY MR. DRISCOLL-MacEACHRON:

19 Q The Court's holdings were based on the
20 First Amendment --

21 MS. FROST: Objection.

22 BY MR. DRISCOLL-MacEACHRON: (RESUMING)

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1 Q -- is that correct?

2 MS. FROST: Objection to form.

3 THE WITNESS: I'm not a lawyer, and I'm
4 not going to parse out exactly what the legal
5 rationale was by these courts; but I do know that
6 English-only provisions have a disparate effect on
7 those who speak English less well, which in the State
8 of Arizona are disproportionately minority, and that
9 these laws were struck down.

10 BY MR. DRISCOLL-MacEACHRON:

11 Q Did you read the decisions that struck
12 down the laws?

13 A I may have. If I have, I don't recall.
14 I think --

15 Q If those courts did not rely on any
16 discriminatory purpose or effect, do you still think
17 that they are relevant to your assessment of Senate
18 factor one?

19 A Absolutely.

20 MS. FROST: Objection to form.

21 THE WITNESS: Absolutely. My assessment
22 that an official constitutional provision that the

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1 language of the State of Arizona should be in English
2 and only materials in English, the fact that that has
3 a disparate effect on those who speak English less
4 well, and the fact that it was the most restrictive
5 English-only provision in the country is not
6 dependent upon the particular legal reasoning of the
7 courts whereby they struck it down as
8 unconstitutional.

9 BY MR. DRISCOLL-MacEACHRON:

10 Q Your report does refer to it as being the
11 most restrictive in the country, I believe. What do
12 you base that on?

13 MS. FROST: Objection.

14 MR. DRISCOLL-MacEACHRON: You do state it
15 in the report -- withdrawn.

16 BY MR. DRISCOLL-MacEACHRON:

17 Q What did you base that on? Did you
18 examine other English-only provisions?

19 A I believe there is -- that was based upon
20 the analysis of the English-only law in the footnote
21 68.

22 Q And that's an article from The New York

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1 Times?

2 A That's correct.

3 Q Your next bullet point discusses
4 proposition 200; is that correct?

5 A Yes.

6 Q Are you aware that proposition 200 was
7 precleared?

8 A I'm not aware of its preclearance
9 history, but I am aware that it was struck down by
10 the courts.

11 Q You are aware that it was a law relating
12 to a voting practice or procedure. Correct?

13 A Absolutely. And the fact, by the way --
14 let me finish.

15 And the fact that it may have been
16 precleared, as the justice department makes it clear,
17 does not necessarily mean that it is not
18 discriminatory in its effect because justice has a
19 particular standard that is not equivalent
20 necessarily with other standards under other sections
21 of the Voting Rights Act. I just wanted to make that
22 clear.

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1 more difficult.

2 Q Are you aware that the ninth circuit
3 specifically rejected a challenge to Proposition 200
4 under section two of the Voting Rights Act?

5 MS. FROST: Objection to form.

6 THE WITNESS: I'd have to look back at
7 the legal reasoning behind it, but that does not
8 necessarily mean that it didn't make registration
9 more difficult.

10 BY MR. DRISCOLL-MaceACHRON:

11 Q So to recap, the fact that it was
12 precleared by the Department of Justice and survived
13 a challenge under section two, in your opinion, does
14 not resolve whether or not it had a discriminatory
15 effect?

16 A Certainly preclearance by justice
17 doesn't, and it did not survive court challenge,
18 which referred to -- let me finish -- did not survive
19 court challenge.

20 And, you know, I am not going to say one
21 way or the other all of the ins and outs of the legal
22 reasoning of the courts; but I do know they refer to

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1 the NVRA and the purpose of the NVRA taking into
2 account the possibility of fraud to make voting
3 more -- to make registration more accessible.

4 Q The next bullet point you refer to deals
5 with a nomination petition challenge regarding a
6 minimal fluency requirement. Correct?

7 A Correct.

8 Q You referred to an article as your source
9 for that assertion. Correct?

10 MS. FROST: Objection to form.

11 BY MR. DRISCOLL-MacEACHRON:

12 Q The source you cite for that proposition
13 is footnote 70; is that right?

14 A Yes. "Journal of Law and Policy," that's
15 right.

16 Q Did you read the underlying decision in
17 that matter?

18 A I don't recall having read the decision;
19 but I do know the Arizona Supreme Court, as I quite
20 explicitly state, upheld the finding.

21 Q And are you aware that it rejected a
22 constitutional challenge to the fluency requirement?

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1 A I'm not aware of, again, the ins and outs
2 of its legal reasoning; but I know it did reject the
3 challenge to the fluency requirement.

4 That doesn't mean, though, that this
5 fluency requirement doesn't have a disparate impact
6 on those who speak English less well. It simply
7 means it did not find a constitutional violation.
8 Not every discriminatory provision necessarily
9 violates the Arizona Constitution.

10 Q And are you aware that the fluency
11 requirement there only required a minimal amount of
12 English to conduct business?

13 A Correct.

14 MS. FROST: Objection to form.

15 THE WITNESS: But that has to be
16 interpreted and understood.

17 BY MR. DRISCOLL-MacEACHRON:

18 Q And did you review the Supreme Court
19 decision that, in fact, did that?

20 MS. FROST: Objection to form.

21 THE WITNESS: Again, I don't recall the
22 ins and outs of the legal reasoning of the Supreme

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1 Court.

2 If you want to point me to some
3 particular passages in the decision, I'd be happy to
4 comment on them; although, again, with the proviso
5 that I would do it from the perspective of a social
6 scientist, not a lawyer.

7 BY MR. DRISCOLL-MacEACHRON:

8 Q Next we turn to the 2016 presidential
9 precursor to the primary election. It's the
10 presidential preference election here on page 24.

11 A Correct.

12 Q That's one of the bases for the claims in
13 this lawsuit. Correct?

14 A That's my understanding.

15 Q But you've included it here as one of the
16 factors to consider in determining whether that
17 practice was, in fact, discriminatory?

18 A Yes. Because I believe my analysis so
19 shows it was.

20 Q After that, you move to what you describe
21 as indirect impacts, I believe, on the bottom of page
22 24?

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1 A Correct.

2 Q Do you know that the first bullet point
3 is discussing the Martin Luther King holiday?
4 Correct?

5 A Correct.

6 Q And Arizona did, in fact, establish that
7 holiday by popular vote. Correct?

8 A Eventually, yes, after all the
9 controversy and difficulty that I described and --

10 Q Did that --

11 A Let me finish.

12 And it did so after almost every other
13 state had already done so a few years before.

14 Q Did the Martin Luther King Day holiday
15 involve a voting practice?

16 A I never said it did. In fact, I was
17 quite explicit in saying that, as you even
18 characterized it, we are talking about indirect,
19 rather than direct, effects on voting.

20 Q Senate factor one requires the
21 discrimination to touch the rights of the minority
22 group to register, vote, or otherwise participate in

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1 the democratic process. Correct?

2 A Yes. And I think that can be indirect,
3 as well as direct.

4 Q How did the Martin Luther King Day
5 holiday touch the right to register vote?

6 A As I said, one way in which you can
7 affect the right to vote indirectly is by placing a
8 stigma on minority status in the State of Arizona.

9 And I think by opposing the Martin Luther
10 King holiday by being out of step with the rest of
11 the nation, that certainly made a statement to the
12 African-American people of the State of Arizona about
13 how they were regarded; and that can reverberate in
14 various ways in voting rights.

15 Q Did you conduct any independent
16 assessment to determine how the presence or absence
17 of the Martin Luther King Day holiday touched the
18 right to register to vote or any other voting
19 practice or procedure?

20 A No. Beyond the fact that you had Arizona
21 out of step in how it is treating the most
22 illustrious and well-regarded African-American

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1 leader, other than that, no.

2 Q The next bullet point discusses
3 employment discrimination; is that right?

4 A Yes.

5 Q And you specifically site an exemption
6 from claims of racial discrimination for employers
7 with 15 or fewer employees?

8 A Yes.

9 Q Are you aware that the federal law on
10 employment discrimination, Title VII, also has an
11 exemption for employers under 15?

12 A I believe that's correct.

13 But that's not the only provision of the
14 Arizona Employment Protection Act.

15 Q What other specific provisions are you
16 referencing there?

17 A I think it made -- it established
18 standards that made it more difficult for minorities
19 to bring lawsuits for racial discrimination.

20 Q Did you examine how those standards
21 compared to the standards under the federal
22 employment discrimination statutes?

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1 A I did not.

2 But this specifically related to Arizona
3 law, and how it made it more difficult under Arizona
4 law to bring lawsuits, and how it made it more
5 difficult under Arizona law to include certain types
6 of employers.

7 Q You next turn to Proposition 107 on
8 affirmative action.

9 A Correct.

10 Q Did this involve a voting practice, voter
11 registration, or any other voting procedure?

12 A Again, we have been over this several
13 times now. These were --

14 Q A yes or no would be fine.

15 A These were examples of official acts that
16 had a disparate impact upon minorities and that
17 indirectly affected the right to vote.

18 Affirmative action affects employment
19 opportunities, educational opportunities which are
20 related to the ability to fully participate in the
21 political process and elect candidates of their
22 choice. And I discuss the ways in which

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1 socioeconomic standing is directly related to
2 opportunities to vote.

3 Q You are aware that the Supreme Court has
4 upheld bans on affirmative action such as this?

5 MS. FROST: Objection to form.

6 THE WITNESS: I don't know if this
7 particular ban on affirmative action has been or has
8 not been adjudicated by the Supreme Court. I don't
9 believe it has.

10 BY MR. DRISCOLL-MacEACHRON:

11 Q But generally, do you understand that
12 bans on affirmative action have been reviewed by the
13 Supreme Court?

14 A I think some have, but you would have to
15 look at the particularities. And that, again,
16 doesn't mean that it doesn't have a disparate impact
17 upon minorities.

18 Q In the interest of time, I'm going to
19 move to the bullet point on SB 1070 that's on the top
20 of page 26.

21 A Yes.

22 Q You refer to the fact that the Supreme

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1 Court struck down three parts of the law. Correct?

2 A Yes.

3 Q It struck those down on preemption
4 grounds. Correct?

5 MS. FROST: Objection.

6 THE WITNESS: Again, you are asking me
7 for some kind of legal conclusion to parse out the
8 legal reasoning. And unless you show me something
9 specific in the decision, I'm not going to give you
10 generic commentary on legal issues.

11 BY MR. DRISCOLL-MacEACHRON:

12 Q Dr. Lichtman, you included the United
13 States Supreme Court decision on these laws
14 specifically in your discussion of Senate factor one.

15 I'm asking you if that Supreme Court
16 decision discussed discrimination in any way.

17 A I'd have to look, again, at the Supreme
18 Court decision.

19 But whether or not it struck it down on
20 those parts of the constitutional law relating to
21 racial discrimination, clearly this is a law that has
22 a disparate impact upon Latinos in the State of

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1 Arizona.

2 Q Are you aware that the District Court of
3 Arizona has rejected a section two -- excuse me -- an
4 equal protection claim against SB 1070?

5 MS. FROST: Objection to form.

6 THE WITNESS: Again, I'm not going to --
7 unless you show it to me, I'm not going to parse out
8 the legal reasoning of a particular decision.

9 BY MR. DRISCOLL-MacEACHRON:

10 Q But in assessing the discriminatory
11 effect of these laws, you did not examine decisions
12 which addressed those discriminatory effects?

13 MS. FROST: Objection to form.

14 THE WITNESS: I'd have to see the
15 particular decision and what it said about
16 discriminatory effects.

17 BY MR. DRISCOLL-MacEACHRON:

18 Q Did you do so in your review of the law?

19 A I did not look at that particular
20 district court decision -- no -- the one, I believe,
21 you are referring to.

22 Q I would like you to turn to the bottom of

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1 Q And on page 29, you describe this data as
2 including statewide general elections "in which the
3 winning candidate garners less than a landslide
4 victory of 20 percentage points of more." Correct?

5 A That's right.

6 Q Is that the reason you did not include
7 the 2010 Senate race?

8 A That's correct. I didn't include
9 non-competitive --

10 Q Did you --

11 A Let me finish.

12 I didn't include non-competitive
13 elections which don't give you insight into racial
14 polarization by race and by party.

15 Q Did you have any reason to believe that
16 the voters in Arizona did not vote in that election?

17 A I never said that.

18 Q But you excluded data on how they voted
19 in the 2010 Senate race. Correct?

20 A I just explained why.

21 Q Wouldn't a landslide victory by
22 definition show support from groups of different

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1 ethnicity?

2 A Of course, by definition, if there is no
3 real contest, you don't really have an alternative to
4 choose from.

5 Q But you could determine the percentage
6 of, say, the Hispanic vote for a Republican
7 candidate. Is that right?

8 A Of course. That's not my point. My
9 point is --

10 Q And you also --

11 A Let me finish.

12 My point is not that you can't create
13 measurements. My point is the measurements are not
14 meaningful.

15 Q And you also did not include any
16 information on any statewide candidates in 2004,
17 2006, 2008, 2010, or 2012. Correct?

18 A I think that's right.

19 Q Did you examine whether or not those were
20 landslide victories?

21 A To the best of my recollection, I did.
22 Again, I always hate to assert a negative; but to the

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1 best of my recollection, that's what I looked at.

2 Q So you think there is no meaningful data
3 on racially-polarized voting in the statewide
4 elections between 2004 and 2012?

5 A If they were non-competitive, then these
6 kinds of measures are not informative. That's
7 correct.

8 You know, I'm not saying -- I'm human.
9 I'm not saying I didn't miss one that was truly
10 competitive; and if you want to show it to me, I'd be
11 happy to look at it.

12 Q Do you recall actually looking at the
13 statewide races?

14 A Yes. The statewide races for Senate,
15 governor, and president -- yes -- those are the ones
16 for which exit polling was taken.

17 Q Then table three, this is taken from a
18 report created by Gary King and Ken Strasma; is that
19 right?

20 A Yes.

21 Q And the bottom of the table on page 32
22 reflects that this was a report that they gave to the

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1 Arizona Independent Redistricting Commission on
2 November 28th, 2011?

3 A That's my understanding.

4 MR. DRISCOLL-MacEACHRON: Colin, could
5 you pull that exhibit, please.

6 (The document referred to was marked
7 for identification as Lichtman
8 Deposition Exhibit No. 8.)

9 BY MR. DRISCOLL-MacEACHRON:

10 Q Is this the report you referred to
11 to generate the tables on pages 31 and 32 of your
12 report?

13 A It's a very long report. I'm not going
14 to look at every page to verify that, but I'll take
15 your representation.

16 Q At least looking at the first page, does
17 that look like the first page of the report that you
18 analyzed to generate the table on pages 31 and 32 of
19 your report?

20 A It looks like it. Again, I would have to
21 look at all the pages; and I'm not going to do that.

22 Q Did the version that you analyzed have

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1 the "draft" watermark on it as this document does?

2 A I'm sure it did.

3 Q So you relied on draft data from this
4 report?

5 A Correct.

6 Q And this report was created in aiding --

7 A Wait a minute.

8 Q -- in the redistricting process. Correct?

9 A This was draft legislative districts.

10 Is that what you are referring to.

11 Q There is a "draft" watermark diagonally
12 across the page.

13 A Yes. Oh, I see. That's fine. I got it.

14 I was actually looking at a different draft. There
15 are two statements. I got you.

16 That's correct.

17 Q And this was created to aid the
18 commission in redistricting. Correct?

19 A I don't know the purpose, but it
20 certainly looks that way. They didn't state.

21 Q How did you obtain this report?

22 A I got it from counsel.

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1 Q Looking at the table of contents there on
2 page one, does this list the districts that they
3 analyzed?

4 A I don't know if it lists every single
5 district, but it lists a bunch of them. Yes.

6 It may well be exhaustive. I'd have to
7 check, but I won't dispute that.

8 Q And this isn't a complete list of the
9 districts in Arizona. Correct? It's a selection?

10 A No. Certainly not.

11 But, you know, a lot of districts in
12 Arizona don't have large concentrations of minorities
13 to enable you to do this kind of analysis.

14 Q In fact, these districts are the
15 districts that the commission had identified as
16 potential majority-minority districts. Correct?

17 A That's right. And so those would be the
18 most amenable districts to this kind of analysis
19 because they would have sufficient concentration of
20 minorities to do a statistical analysis.

21 Q And they did not conduct a statewide
22 analysis in this report. Correct?

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1 A I'm sorry. I didn't hear that.

2 Q They did not conduct an analysis of
3 racial polarization statewide. Correct?

4 A That's correct. That was in my other
5 table, table two.

6 Q Did you independently examine any of the
7 data they relied on in their report?

8 A No. I did not have access to any of
9 their data, but I am quite familiar with Gary King.

10 Q And the elections that you have included
11 in table three: These are the elections that they
12 analyzed in assessing the proposed majority-minority
13 districts in this report; is that correct?

14 A No. I think I analyze -- I did not
15 analyze proposed districts.

16 I only analyzed existing legislative
17 districts since my interest was not to assess
18 proposed legislative districts but to analyze the
19 extent to which there was racial polarization in
20 districts that had currently existed at the time of
21 this report, not hypothetical proposed districts.

22 Q And so, for example, there is a mine

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1 elections were competitive.

2 Q Looking at these two charts and tables,
3 you did not consider any other factors in determining
4 whether there was racially-polarized voting; is that
5 right?

6 A I have these two charts which tell you
7 the same thing.

8 Q I'm sorry. Could you answer the
9 question?

10 A Yes. I said, I have these two charts
11 which tell you the same thing with respect to
12 racially-polarized voting using different elections
13 and different methodologies but coming to the same
14 answer.

15 Q So, you didn't look at any other data
16 other than that included in these two tables.
17 Correct?

18 A That's the data I relied on. Correct.

19 Q Did you look at whether any other factors
20 besides race could have been responsible for the
21 voting patterns you identified?

22 A That is not what the factor asked. It

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1 doesn't say what the causes of racially-polarized
2 voting was. It just says the extent to which
3 elections of the state or political subdivision is
4 racially polarized.

5 They did not look behind the
6 racially-polarized numbers to figure out one way or
7 the other why people are voting the way they did,
8 just how minorities and whites in the State of
9 Arizona voted, which is what the factor is asking
10 for.

11 Q And in table three, you only look at
12 races in which there is an actual Hispanic candidate.
13 Correct?

14 A Yes. And that's a pretty standard
15 practice.

16 But in my other table, that's not the
17 case. I just look at all those statewide elections
18 which are competitive and for which there are exit
19 polls.

20 Q All right. Moving on to Senate factor
21 three, you begin discussing the size of election
22 districts. Correct?

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1 A Yes.

2 Q You understand that the number of
3 districts is set by the Constitution and federal
4 statute. Correct?

5 A The number of congressional districts,
6 that is correct.

7 Q And that the one person, one vote
8 principle controls the population size of the
9 congressional districts. Correct?

10 A The population -- not the geographic
11 size -- that's right.

12 Q Are you aware of any method by which
13 Arizona could have drawn the necessary number of
14 districts and complied with one person, one vote, and
15 was left with smaller districts than are currently
16 drawn?

17 A I haven't looked at that question.
18 My only purpose was, in the context of
19 the totality of circumstances, to assess whether the
20 size of congressional districts had a particular
21 impact on minority electoral opportunities, not that
22 they could have drawn districts differently. They

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1 may well have been able to.

2 But as districts are drawn, that enhances
3 the opportunity for discrimination against
4 minorities. That's all I was looking at.

5 Q Is there a way that you could draw a
6 smaller district in a sparsely-populated area?

7 A It's possible. You know, we are so now
8 attuned to the nuances of technology that there are
9 virtually an infinite number ways you can draw
10 districts.

11 Whether or not you can draw districts for
12 Congress -- which is what we have been talking about
13 -- to limit the size, I did not look at that because
14 that was not the purpose of my analysis.

15 I'm not arguing here or contending here
16 that these districts were drawn intentionally to
17 enhance the opportunity for discrimination against
18 minorities. I'm simply saying that's the way it is.
19 It may well be they were, but I didn't answer that
20 question.

21 Q You are aware that the districts were
22 precleared. Correct?

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1 A Yes.

2 Q Next we turn to voting practices and
3 procedures, and you cite table four which deals with
4 waiting times using data from the Cooperative
5 Congressional Election Study; is that right?

6 A That is correct. That is one of the
7 things I turned to. That's right.

8 Q Is it common to refer to that as the
9 CCES?

10 A Yes.

11 Q Is there CCES data available for the
12 midterm elections in 2010 and 2014?

13 A That's certainly possible; but it's much
14 less relevant than the presidential election data
15 because the voting populations are so much larger in
16 presidential elections, and minorities are much more
17 heavily represented in presidential elections than
18 they are in midterm elections.

19 So, our best data for something like
20 this, particularly when there is limited sample size,
21 is the presidential elections.

22 Q But to be clear, you did not analyze or

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1 more?

2 A Yes. Twenty-two percent. It's fifty-eight
3 percent higher than the whites.

4 Q Six voters waited 31 minutes or more --
5 six minority voters waited 31 minutes or more in
6 2012?

7 A Correct, almost double the percentage of
8 whites.

9 Q Do you have information about the
10 distribution of these voters?

11 A I don't know what that question means.

12 Q What polling locations they voted at.

13 A No. I'm not aware of where any of these
14 folks would have voted.

15 Q And to be clear, you drew this from the
16 CCES data that's available online. Is that right?

17 A Yes. Anyone can access it.

18 Q And so the effect you find is that this
19 factor favors a finding of discrimination because 15
20 minority voters, over the course of two elections,
21 waited more than 31 minutes in line?

22 MS. FROST: Objection to form.

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1 THE WITNESS: That completely misstates
2 the table, completely misstates my conclusion, and
3 misstates what I found.

4 BY MR. DRISCOLL-MacEACHRON:

5 Q Dr. Lichtman, how many minority voters
6 are identified in this table as waiting more than 31
7 minutes?

8 A Fifteen out of 105 or 14.3 percent.

9 Q So out of 105 minority voters, is that a
10 significant sample of the number of minority voters
11 that voted in that election?

12 A Yes.

13 As we pointed out, I'm not so much
14 concerned with the minority percentage, per se. The
15 whole point of this table, as I discussed it, is to
16 compare the wait times for minorities with the wait
17 times for whites.

18 And that comparison considers not just
19 the sample size for minorities but also the sample
20 size for whites. And you statistically compare using
21 these sample sizes -- the white percentage, which is
22 7.9 percent, and the minority percentage, which is

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1 almost double that -- 81 percent higher at 14.3 percent
2 -- and you assess whether the differences -- the
3 difference between those two percentages is
4 statistically significant.

5 And I found the differences statistically
6 significant at the standard 0.05 level in social
7 science.

8 Q But you weren't able to control for
9 whether or not those voters were grouped at
10 particular locations. Correct?

11 A No. You just looked at minorities versus
12 whites, and you saw the same pattern over two
13 different elections separated by four years.

14 Q Is it a common tactic to combine
15 responses to two different surveys taken in two
16 different years?

17 A Certainly, because they are asking the
18 same question.

19 Q Are you sure they are asking the same
20 question in this?

21 A Let me finish. Let me finish.
22 They are asking the same question.

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1 terms. It was quite critical.

2 BY MR. DRISCOLL-MacEACHRON:

3 Q Dr. Lichtman, you referred to this as a
4 practice. Are you aware of this publicity pamphlet
5 issue happening more than once?

6 A I don't understand the question.
7 Happening more than once?

8 Q Has there been more than one issue of the
9 type described on page 36 of your report?

10 A It's possible. I'm not aware of it but
11 it --

12 Q You refer to only --

13 A Let me finish.

14 What I was going to say is, you know,
15 it's possible.

16 I analyzed this particular recent
17 development. Whether there had been a similar
18 development at another time is certainly possible.
19 If so, I'm not aware of it.

20 Q But the only thing that you relied on in
21 your report is the single instance that occurred in
22 May 2016; is that right?

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1 MS. FROST: Objection to form.

2 THE WITNESS: No. I had other elements,
3 as well, under this factor. Quite a few. This was
4 simply --

5 BY MR. DRISCOLL-MacEACHRON:

6 Q Dr. Lichtman, I'm going to interrupt
7 because you're repeating prior testimony.

8 With regard to the publicity pamphlet,
9 you are referring only to the instance in May 2016.
10 Correct?

11 MS. FROST: Objection to form.

12 THE WITNESS: Yes. That is correct with
13 respect to the publicity pamphlet alone.

14 BY MR. DRISCOLL-MacEACHRON:

15 Q And the same is true with your discussion
16 of the election procedures manual -- that you are
17 referring only to the instance in 2016?

18 MS. FROST: Objection to form.

19 THE WITNESS: That is correct. With
20 respect to that particular example, the example is
21 from 2016.

22 BY MR. DRISCOLL-MacEACHRON:

208

Allan J. Lichtman
July 8, 2016

ER003032

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1 Q You looked at statewide races historically;
2 is that right?

3 A That's one of the things I looked at.
4 Yes.

5 Q How many minority candidates did you
6 identify that have been nominated for statewide
7 office?

8 A I think this just looks at the extent to
9 which minority -- members of the minority have been
10 elected to public office. It doesn't ask you the
11 extent to which members of minority group have been
12 nominated to public office. So, I just followed the
13 guidelines here and looked at elected.

14 Q But you agree that if minority candidates
15 are not nominated, they wouldn't be elected?

16 A That goes without saying.

17 But that also is yet further indication
18 of a totality of circumstances inimical to
19 minorities, if not only aren't they being elected,
20 they're not even being nominated.

21 Q And you considered the state house to
22 have a rough proportionality; is that right?

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1 A Yes. The only area that there was rough
2 proportionality, yes.

3 Q Did you examine county or municipal
4 offices --

5 A No.

6 Q -- in this factor?

7 A No. I didn't have access to racial
8 identification of county and municipal office
9 holders.

10 MR. DRISCOLL-MacEACHRON: Colin, can you
11 get tab 15, please.

12 (The document referred to was marked
13 for identification as Lichtman
14 Deposition Exhibit No. 9.)

15 BY MR. DRISCOLL-MacEACHRON:

16 Q Dr. Lichtman, you've been handed a
17 document marked as Exhibit 9. This is the National
18 Directory of Latino Elected Officials for 2015.

19 A That's correct.

20 Q Do you see that on the cover page?

21 A Yes. As far as I can tell, I think it
22 is.

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1 Q And that's the data for Arizona. Correct?

2 A Yes.

3 Q And that includes information on county
4 officials, municipal officials, et cetera?

5 A It includes partial information.

6 Q And in what sense is the information
7 partial?

8 A A, it's only Hispanics; and my data
9 covers all minorities.

10 And B, it doesn't give you percentages.
11 It's the percentages that matter.

12 I mean, I'm looking at this real fast;
13 and it only gives you numbers. Without knowing the
14 denominator, there is no way to know what these
15 percentages are.

16 Q Were you aware that there were 350
17 Hispanic elected officials in Arizona in 2015?

18 A I may have been; but as I said, that
19 doesn't mean anything without the denominator.

20 Q But you reviewed this data and chose not
21 to include it in your report?

22 MS. FROST: Objection to form.

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1 THE WITNESS: That is not correct.

2 My report dealt with all minorities and
3 dealt with percentages.

4 As I said, I did not have access to that
5 data at the local level; and this certainly does not
6 provide the data needed to add comparable rows to
7 table nine.

8 BY MR. DRISCOLL-MacEACHRON:

9 Q You also list judicial offices under
10 judiciary here?

11 A Yes.

12 Q Are you aware that a large number of
13 judges in Arizona are appointed to office?

14 A I'm not sure what the percentage is who
15 are appointed in Arizona.

16 Q Did you --

17 A But --

18 Q -- distinguish between judges who are
19 appointed from those that were elected?

20 A I don't think the database did that.

21 However, we are not dealing here with
22 minor distinctions. We are talking about Latinos

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1 appointed -- I don't know. If you can tell me that
2 number, I would tell you whether that impacted the
3 analysis.

4 Q And did you examine in assessing this the
5 percentage of the population that possessed the
6 necessary qualifications to be appointed as judges?

7 A No. I just looked at the CVAP.

8 Q On Senate factor eight, you look at lack
9 of responsiveness on the part of elected officials to
10 the particularized needs of the members of the
11 members of the minority group. Correct?

12 A Yes.

13 Q Have you previously considered whether a
14 state adopted the Medicaid expansion as relevant
15 under Senate factor eight?

16 A I think that is a relevant factor. Yes.

17 Q Are you aware that Arizona accepted the
18 Medicaid expansion?

19 A I am not certain, but I believe if
20 that -- if it did that, that would be one factor that
21 was responsive. Yes.

22 Q You spend much of this factor discussing

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1 education. Correct?

2 A Yes.

3 Q Are you aware that Arizona recently
4 passed proposition 123 that was directed entirely to
5 providing more funds for education?

6 A Yes. But I understand that was very
7 controversial and the effects have yet to be seen.
8 They just passed it.

9 Q And are you aware that the legislature
10 passed the bill this year expanding the empowerment
11 scholarship account program to students living on
12 tribal lands?

13 A I am not, in detail, aware of that; but I
14 wouldn't dispute it.

15 Q But you didn't consider that under this
16 factor?

17 A No. I don't recall that, and I don't
18 recall the details of it.

19 And we're talking not just about what
20 happened very recently under a lot of pressure but
21 the whole history of a lack of responsiveness and
22 where Arizona now sits relative to other states with

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1 Q And your report doesn't have a separate
2 section on discriminatory impact. Correct?

3 A No. But it discusses discriminatory
4 impact throughout in terms of the effect of HB 2023
5 with respect to minorities and those of lower
6 socioeconomic standing.

7 The law was just passed. So, we can't
8 do, you know, here was this election and the law had
9 this kind of impact. We don't know yet. It's not
10 been -- I think the general election is not until
11 November.

12 Q Understood. So, just so I'm clear,
13 you're not opining on whether HB 2023 will have a
14 discriminatory impact on democratic or democrat
15 voters?

16 A I am opining on that by talking about the
17 relationship between HB 2023 and opportunities to
18 vote for minorities and those of low socioeconomic
19 standing. That's what we can do at this point.

20 Q And I'm not sure I understand your
21 answer; so, let me try a followup.

22 Are you opining that HB 2023 is going to

EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA OF MARICOPA

LESLIE FELDMAN, et al.,)
)
Plaintiffs,)
)
vs.	) No. CV-16-1065-PHX-DLR
)
ARIZONA SECRETARY OF STATE'S)
OFFICE, et al.,)
)
Defendants.)
)

DEPOSITION OF DAVID R. BERMAN, Ph.D.

Phoenix, Arizona
July 8, 2016
9:05 a.m.

REPORTED BY:	CARRIE REPORTING, LLC
YVONNE L. WHITEFIELD,	Certified Reporters
Arizona Certificate No. 50611	4032 North Miller Road
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1 DEPOSITION OF DAVID R. BERMAN, Ph.D. was taken on
2 July 8, 2016, commencing at 9:05 a.m. at the law offices
3 of Snell & Wilmer, L.L.P., One Arizona Center, 400 E. Van
4 Buren, Suite 1900, Phoenix, Arizona, before YVONNE L.
5 WHITEFIELD, a Certified Court Reporter in the States of
6 Arizona and California.

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2 State, and The Seretary of State's Office:

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6 Phoenix, Arizona 85007
7 (602) 542-7902
8 karen.hartman@azag.gov

9 Also present: DEPUTY COUNTY ATTORNEY, ANDREA CUMMINGS,
10 ESQ.

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1 DAVID R. BERMAN, Ph.D.,
2 a witness herein, having been first duly sworn by the
3 Certified Court Reporter to speak the truth and nothing
4 but the truth, was examined and testified as follows:

5

6

EXAMINATION

7

(Deposition Exhibit Number 1 was marked for
8 identification.)

9

BY MS. HARTMAN-TELLEZ:

10

Q. Good morning, Dr. Berman. Before we get started,

11

I want to go over a few of the ground rules of deposition.

12

Have you been deposed before?

13

A. No, I haven't.

14

Q. Have you ever had to testify in court?

15

A. No.

16

Q. Well, as you can see, we have a court reporter

17

here who will be taking everything down and because of

18

that, it is important that we try to not talk over each

19

other.

20

It's much easier for the court reporter to take

21

it down if only one person is talking at once. But it's

22

also important that if your answer is a yes or a no, that

23

you use yes or no as opposed to the uh-huh, uh-uh that we

24

tend to use a lot in conversation.

25

Mr. Barr, sitting next to you, may be objecting
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1 A. That's true.

2 Q. On page 18, the next page, the first paragraph
3 your report sites a 1998 report arising from town hall
4 meetings related to President Clinton's initiative on
5 race; is that correct?

6 A. That is correct.

7 Q. Your citation for that is to an article that says
8 for local reaction. You cite the article; is that right?

9 A. Yes, I do.

10 Q. Did you review the actual report?

11 A. No, I did not.

12 Q. You state that the report highlighted several
13 problems of discrimination in the state in regard to race
14 relations; is that correct?

15 A. I say that's what the article says.

16 Q. That included bilingual education, media
17 stereotyping, racial profiling and disparate terms for the
18 poor and non-whites?

19 A. That's what the report covered according to the
20 source.

21 Q. But according to the source, it didn't mention
22 discrimination of voting; is that right?

23 A. I don't know. I didn't see it in that article.
24 I would have put it in there if I had. I was doing a
25 study on discrimination in general as well as voting.

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1 A. Okay. Yes.

2 Q. One of the other authors of that article was
3 Rudolfo Espino; is that correct?

4 A. Yes.

5 Q. He's one of your colleagues at ASU; is that
6 right?

7 A. I met him one time. We're not friends.

8 Q. Are you aware that Professor Espino was hired as
9 an expert witness in a lawsuit challenging Prop 200?

10 A. No.

11 Q. Are you aware that the Department of Justice
12 precleared the voting related provisions at Proposition
13 200?

14 A. No.

15 (Deposition Exhibit Number 2 was marked for
16 identification.)

17 BY MS. HARTMAN-TELLEZ:

18 Q. I handed you a document that the court reporter
19 has marked as Exhibit 2 to your deposition. Go ahead and
20 look it over.

21 A. This is in support of your earlier --

22 MR. BARR: Let her ask the question.

23 BY MS. HARTMAN-TELLEZ:

24 Q. You had a chance to review this briefly? I'll
25 ask you a few questions about it.

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DEPOSITION OF David R. Berman, Ph.D., 7/8/2016

1 provisions of Proposition 200?

2 A. I said no before, didn't I?

3 Q. You said you weren't aware. Now that you had the
4 opportunity to review this letter --

5 A. Now that I have, yes.

6 Q. Are you aware that the voting-related provisions
7 of Proposition 200 were challenged in court?

8 A. Yes.

9 Q. Are you aware that the Federal District Court and
10 the 9th Circuit Court of Appeals determined that
11 Proposition 200's registration requirement did not violate
12 Section 2 of the Voting Rights Act?

13 A. Yes.

14 Q. Nor did it create an undue burden on the right to
15 vote?

16 A. Yes.

17 Q. In your report in the same paragraph, the last
18 sentence, you state that, "Between 2005 and 2007
19 approximately 31,000 people in Arizona had their
20 registration forms rejected because they could not provide
21 specific documentation of citizenship. Your source for
22 this information is an article by Denise Lieberman; is
23 that correct?

24 A. That's correct.

25 Q. Does that article cite any sources?
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1 A. I'm not quite sure how to follow that. Grabbing
2 headlines?

3 Q. You said that the long lines grabbed headlines.

4 A. Yes.

5 Q. Would you like to take a brief break?

6 A. I haven't answered your question.

7 Q. I think we can take a break. Let's take a
8 five-minute break or so.

9 (Recess taken.)

10 BY MS. HARTMAN-TELLEZ:

11 Q. Back on the record.

12 Before the break, we were talking about the
13 presidential preference election in March of 2016. Do you
14 have any evidence that the effective Maricopa County
15 decision to use fewer polling places disproportionately
16 affected minority voters?

17 A. No direct evidence.

18 Q. Do you have any evidence that the locations
19 chosen for those 60 polling places in the 2016
20 presidential preference election disproportionately
21 affected minority voters?

22 A. No.

23 Q. Also on page 20 of your report, there is a
24 discussion in the third paragraph about Maricopa County's
25 issues with Spanish language -- it's in the second

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1 articles is, in part, how the materials were distributed
2 and whether handed out or not, I'm not sure if that makes
3 this a better source than that.

4 I would have to see further evidence before I
5 could make any kind of judgment.

6 Q. Do you have any evidence that the errors that we
7 have mentioned here about the election date on materials
8 printed in Spanish were anything but a typographical
9 error?

10 A. I have no evidence, no.

11 Q. Do you know if the parties who had threatened to
12 sue over this error ever did so?

13 A. No.

14 Q. Are you aware of the steps that the County took
15 to remediate the error?

16 A. No.

17 Q. In Exhibit 4, does it indicate that the election
18 officials posted in red capital letters the correct
19 general election date in English and Spanish on the
20 recorder's website?

21 A. That's what the article says.

22 Q. On page 20 of your report, you state that the
23 Maricopa County Recorder sent out Spanish language ballots
24 with an incorrect description of a proposition to be voted
25 on for the May 2016 special election; is that right?

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1 place to fix the ballot error?

2 A. Yes, I see it.

3 Q. What does the article say they did to fix the
4 error?

5 A. They were going -- this is what Purcell said.
6 We're going to send out a card that shows the error and
7 reprint the errors going to the polling place. That's
8 what she said.

9 Q. You don't have any evidence that the original
10 error on the ballots for the May 2016 special election
11 were anything but an inadvertent error, correct?

12 A. I don't have any evidence to think it was
13 anything other than that?

14 Q. Yes. I can ask the question again.

15 A. Is there a double negative?

16 Q. Do you have any evidence that the error in
17 putting the wrong Spanish language description of
18 proposition 124 was intentional?

19 A. No.

20 Q. In your report on page 20, the third paragraph
21 you refer to a dispute between political activists and
22 Maricopa County Recorder Helen Purcell regarding
23 statements reported by a television station about ballot
24 collection; is that right?

25 A. Yes.

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1 minorities"; is that right?

2 A. Yes.

3 Q. And do you understand that the Voting Rights Act
4 preclearance -- Section 5, coverage formula, which appears
5 in section four -- brought Arizona within Section 5
6 because the state did not print voting materials in
7 languages other than English and also because less than 50
8 percent of the citizens of voting age were registered or
9 less than 50 percent of such persons voted in the 1972
10 presidential election; is that correct?

11 A. Yes.

12 Q. So when Arizona was required to comply with
13 Section 5 of the Voting Rights Act, it was because of
14 policies that were in place in the early 1970s; is that
15 right?

16 A. Yes.

17 Q. Policies that had been in place before then as
18 well?

19 A. Yeah.

20 Q. But they were not in place after that?

21 A. They missed the deadline.

22 Q. On page 21 of your report, the third full
23 paragraph, you state that, "Since 1982, the Justice
24 Department has vetoed four statewide redistricting plans
25 that appear to discriminate against minorities"; is that

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1 MR. BARR: Today?

2 MS. HARTMAN-TELLEZ: Today.

3 THE WITNESS: Restate that, please.

4 BY MS. HARTMAN-TELLEZ:

5 Q. Sure. Do you allege that the redistricting plan
6 proposed by the state of Arizona in 1982 has any lingering
7 effects on the ability of voters to vote early or to vote
8 at the polls on election day?

9 A. I guess I can really say I don't know.

10 Q. If you would look back at Exhibit 7, which is the
11 printout from the Department of Justice website, on the
12 second page of that, about a third of the way down, do you
13 see that there was an objection to the state of Arizona's
14 senate and house redistricting plan on June 10 of 1992?

15 A. Yes.

16 Q. Then, also, to the house and senate redistricting
17 plan on August 12, 1992?

18 A. Uh-huh. Yes.

19 Q. Are these among the four objections that you
20 referred to in your report?

21 A. These are -- I assume these are among the four
22 objections that were referred to and the source that I
23 used for making that statement.

24 Q. Do you allege that the redistricting plans
25 proposed in 1992 have any effect on the ability of
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1 minority voters to vote early or vote at the polls on
2 election day in 2016?

3 A. I have no answer to that.

4 Q. Then if you could look almost at the very bottom
5 of page 2 of Exhibit 7 -- that's the DOJ list -- do you
6 see there's an objection listed there to the state of
7 Arizona 2001 legislative redistricting plan dated May
8 20th, 2002?

9 A. Yes.

10 Q. Do you allege that the redistricting plan
11 submitted to the Department of Justice in 2002 has any
12 effect on the ability of minority voters to vote early or
13 at the polls on election day in 2016?

14 A. I have no -- I'm not sure. I have no opinion on
15 that.

16 Q. Are you aware that Arizona's current
17 redistricting plan, the one that was created after the
18 2010 census, passed preclearance on its first try?

19 A. I have no information to the contrary.

20 Q. Do you also have no information to the contrary
21 that the Supreme Court recently affirmed that
22 redistricting plan against a challenge that it took race
23 into consideration too much?

24 A. That was the latest -- what did you say the
25 conclusion was?

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1 Q. The challenge to the latest redistricting plan
2 was that it considered --

3 A. Yeah. And that was rejected, as I remember, by
4 secondary sources.

5 Q. So these four Department of Justice Section 5
6 objections over nearly 40 years of Section 5 coverage for
7 Arizona were the only objections to statewide practices;
8 is that correct?

9 A. The only ones that I picked up from this
10 particular source.

11 Q. If you look at Exhibit 7, do you see any other
12 objection where the jurisdiction listed is the state of
13 Arizona that we haven't discussed?

14 A. No.

15 Q. Just to clarify, the very first one on the list,
16 do you see that?

17 A. That's the circulating petition?

18 Q. Correct.

19 A. Yes.

20 Q. Do you see what it says in the notes?

21 A. Withdrawn.

22 Q. So the four DOJ Section 5 objections that we've
23 just discussed, all of them involved redistricting; is
24 that right?

25 A. They mention the four in that article that I
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1 besides the state legislature, did you?

2 A. I did, but this is the only one I reported on.
3 The two minorities he mentions statewide are the only two
4 that I could think of, Castro and Kennedy. Those are the
5 only ones I was familiar with.

6 Q. You don't know how many minority candidates have
7 been elected to local offices in Arizona, do you?

8 A. No.

9 Q. The last sentence of the final paragraph on page
10 21 of your report says, "It has been a struggle for
11 Hispanic legislatures and African-Americans and Native
12 American legislatures as well, nearly all of whom are
13 democrats, to have an impact in the Republican dominated";
14 is that correct?

15 A. Yes.

16 Q. Nonminority democrats also encounter a similar
17 problem in having an impact; isn't that right?

18 A. Yes. That is true. I'm not sure of the
19 distinction altogether. I think that is true.

20 Q. The reason for lack of impact is that they're in
21 the minority party, not that they're racial minorities?

22 A. I think that's true, yes. It's been almost a
23 constant.

24 MS. HARTMAN-TELLEZ: Do you want to take another
25 break?

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1 MR. BARR: Why don't we take five minutes.

2 (Recess taken.)

3 BY MS. HARTMAN-TELLEZ:

4 Q. We are back on the record. I see you have in
5 front of you again your report, Exhibit 1. Turning to
6 page 19 of your report, the last paragraph on that page in
7 the first sentence, you wrote that "Arizona is currently
8 part of a national movement ostensibly aiming to protect
9 against voter fraud"; is that correct?

10 A. That's true yes.

11 Q. And you list standards enacted by states as part
12 of this movement, right?

13 A. Yes.

14 Q. You see that they include photo ID requirements,
15 limits on early voting, limits on the time allowed for
16 voter registration, proof of citizenship and revocation of
17 policies restoring the right to vote for people with past
18 felony convictions; is that correct?

19 A. Yes.

20 Q. Arizona does not have a photo ID requirement,
21 does it?

22 A. No -- I'm not sure.

23 Q. Have you voted at a polling place since 2004?

24 A. I don't know.

25 Q. Do you generally vote early by mail-in ballot?
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1 legislative climate, did that have to do with the Arizona
2 legislative climate?

3 A. It incorporated it. What we did is we did the
4 individual case studies and they all had -- it was divided
5 up so we all talked about the same thing in different
6 sections. Then we decided we wanted to take those things
7 out, talk about climate as a separate topic. So somebody
8 had to coordinate all the individual studies and put them
9 into one.

10 So that's essentially what I did with the climate
11 chapter.

12 Q. Okay. So your responsibility of that chapter was
13 to coordinate the 50 state studies?

14 A. Yes. States that had term limits. The ones -- I
15 simply polled together the reports from each of the states
16 that had term limits on that topic and then integrated it
17 into an essay article.

18 Q. Do you remember anything in particular that you
19 wrote about the Arizona legislative climate?

20 A. I would refresh my memory before I made any
21 remarks on that. At the moment, I might be confusing that
22 with other studies.

23 Q. Through that work and other work presumably,
24 you're familiar with the legislative process in Arizona
25 that results in bills becoming laws?

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1 A. Yes.

2 Q. One of the procedures or elements of this case
3 that you examined was HB 2023, a new law?

4 A. Yes.

5 Q. That law was passed by the house, the Arizona
6 House, correct?

7 A. Yes.

8 Q. Passed by the senate?

9 A. Yes.

10 Q. And then signed into law by the governor?

11 A. That's the process, yes.

12 Q. In your review for this case, do you take any
13 issue with that legislative process that resulted in the
14 bill becoming law?

15 A. Not that I can think of.

16 Q. In your work on legislative processes, have you
17 seen that discrimination has at all been an element in the
18 legislative process?

19 A. In terms of intent or in terms of effect, I'm not
20 sure -- where would I look for discrimination in the
21 process?

22 Q. Given your review in this case, do you think that
23 historical discrimination in Arizona has impacted the
24 legislative process that results in bills like HB 2023
25 eventually becoming law?

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EXHIBIT 12

VOTING DETERMINATION LETTERS FOR ARIZONA

The Civil Rights Division has prepared this site to make Civil Rights Division documents more available to the public.

To the extent that any documents do not currently comply with Section 508 of the Rehabilitation Act because of the poor quality of the original documents used to prepare this site, the Division is applying its available resources in an effort to create alternative records that are readable.

Determination Letters for Arizona, by date.

Jurisdiction and date	Description and submission numbers	Notes
State of Arizona 10/09/1973 (pdf)	Chapter 159--method of circulating recall petitions (V5782)	Withdrawn 3-15-74
Cochise Cty. College Board 02/03/1975 (pdf)	Redistricting (7071A)	
Apache Cty. High School District No. 90 10/04/1976 (pdf)	Bond election; multilingual procedures (X7759)	Declaratory judgment denied in Apache County High School District No. 90 v. United States, No. 77-1815
Apache Cty. High School District No. 90 03/20/1980 (pdf)	Special dissolution election and changes relating to election, including polling places and multilingual procedures (D.D.C. June 12, 1980) (7X-0067)	Withdrawn 5-7-80
State of Arizona 03/08/1982 (pdf)	H.B. No. 2001--House and Senate reapportionment (82-1539)	
Douglas (Cochise Cty.) 12/05/1983 (pdf)	At-large method of election; residency districts; staggered terms; majority vote requirements; limitation on the number of terms councilmembers may serve; special election (83-1403; 83-1404)	Withdrawn 6-23-98
Navajo County 08/31/1984 (pdf)	Redistricting for the five supervisor districts (84-1778)	
Navapache Hospital District (Navajo and Apache Ctys.) 08/16/1985 (pdf)	Elimination of two polling places, the implementation of a five-polling place rotation system, and the reduction in the polling hours (85-1768)	

Cochise Cty. Community College District 11/03/1986 (pdf)	1983 redistricting plan (83-1398)
Apache County 07/17/1987 (pdf)	Navajo-language bilingual election procedures (80-1278)
Apache County 02/10/1988 (pdf)	Navajo-language bilingual election procedures (87-1799)
Coconino County 11/04/1991 (pdf)	Voter registration challenge and purge procedures (91-3167)
State of Arizona 06/10/1992 (pdf)	Act No. 1 (1992)--Senate and House redistricting plan (92-1347)
La Paz County 07/17/1992 (pdf)	1992 redistricting plan for the board of supervisors (92-2285)
State of Arizona 08/12/1992 (pdf)	Act No. 240 (1992)--House and Senate redistricting plan (92-3395)
Arizona Western College District (Yuma and La Paz Ctys.) 09/28/1992 (pdf)	1992 and existing redistricting plans for Yuma County portion of the district (88-2479)
Yuma County 09/28/1992 (pdf)	1992 redistricting plan for the board of supervisors (92-2355)
Graham County 02/22/1993 (pdf)	1992 redistricting plan for the board of supervisors (92-2466)
Coconino County 04/08/1994 (pdf)	Two additional superior court judgeships (93-0681)
Navajo County 05/16/1994 (pdf)	Two additional superior court judgeships (93-0684)
State of Arizona 05/20/2002 (html | pdf)	2001 legislative redistricting plan (2002-0276)
Coconino Association for Vocations, Industry, and Technology (Coconino	Method of election (2002-3844)

Cty.)

02/04/2003

([html](#) | [pdf](#))

Updated August 7, 2015

EXHIBIT 13

U.S. Department of Justice



Civil Rights Division

~~JAN 27 2005~~

JDR:RPL:ANS:jdh
DJ 166-012-3
2004-5004

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

SOICITOR GENERAL'S OFFICE

January 24, 2005

Jessica G. Funkhouser, Esq.
Special Counsel
Office of Attorney General
State of Arizona
1275 West Washington
Phoenix, Arizona 85007

Dear Ms. Funkhouser:

This refers to Sections 3, 4, and 5 of Proposition 200 for the State of Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 10, 2004; supplemental information was received through January 7, 2005. The State of Arizona requested expedited consideration of the submission because of local elections scheduled for March 8 and early voting scheduled to begin on February 3, 2005.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Any regulations adopted by the State to implement the provisions of this initiative require Section 5 review. 28 C.F.R. 51.15.

Sincerely,

A handwritten signature in cursive script that reads "Joseph D. Rich".

Joseph D. Rich
Chief, Voting Section

EXHIBIT 14

NALEO Educational Fund

National Directory *of*
Latino Elected Officials

2015
ER003068

The NALEO Educational Fund
would like to acknowledge

THE FORD FOUNDATION

for its generous support this year
in making the *Directory* possible.

The National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund is the leading organization that empowers Latinos to participate fully in the American political process, from citizenship to public service. As a national, non-partisan 501(c)(3) organization, the NALEO Educational Fund utilizes its network of more than 6,000 governmental, political, and business leaders to conduct civic engagement programs, to provide professional development opportunities and technical assistance, and to conduct advocacy and research on Latino political participation and representation. To reach the NALEO Educational Fund contact:

NALEO Educational Fund National Office

1122 W. Washington Blvd., Third Floor
Los Angeles, CA 90015
213/ 747-7606
www.naleo.org

NALEO Educational Fund

600 Pennsylvania Ave., SE, Suite 230
Washington, DC 20003
202/ 546-2536

NALEO Educational Fund

1314 Texas Ave., Suite 410
Houston, TX 77002
713/ 228-6400

NALEO Educational Fund

55 Broad St., Ste. 9B
New York, NY 10004
212/ 480-1918

NALEO Educational Fund

5950 Lakehurst Dr., Suite 169
Orlando, FL 32819
321/ 795-3757

PREFACE

The National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund is pleased to publish the 2015 *National Directory of Latino Elected Officials*, which marks the thirty-first year that the NALEO Educational Fund has compiled and disseminated a comprehensive enumeration of Latino elected officials throughout the nation. The *Directory* includes the following information in Excel database format:

- The names and the addresses of the nation's Latino elected officials;
- Their geographic distribution;
- The levels of government they represent; and
- Their political affiliation.

For each year between 1984 and 1994, prior to the publication of the *Directory*, the NALEO Educational Fund published its *National Roster of Hispanic Elected Officials*, which provided a listing of Hispanic elected officials, organized by jurisdiction. In 1996, the NALEO Educational Fund decided to change its methodology for compiling information about Latino elected officials, and initiated its publication of the *National Directory of Latino Elected Officials*, which contains a listing similar to the one published in the *Roster*. However, where the *Roster* for any given year had included elected officials who had served in office at any time during that year, the *Directory* generally includes only those elected officials who were in office as of January of the year of publication. Because so many significant elections occur in November of each year, this change enables the *Directory* to reflect the results of the previous year's November elections. For the reasons explained in the "Methodology" section on page iv, as a result of this change, data on the number of elected officials in the *Directory* should not be used to make statistical comparisons with the data in previous *Rosters*.

We hope that this *Directory* provides our readers with a useful resource both to identify Latino representatives and to measure the civic activity of the Latino community.

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ACKNOWLEDGMENTS

2015 Edition

The NALEO Educational Fund extends its sincere appreciation to all the individuals who assisted in the compilation of this *Directory*. Without their assistance it would not be possible to complete this work. While it is impossible to acknowledge all, the NALEO Educational Fund is particularly indebted to the following persons.

We are appreciative of the Latino office holders and their staff who were so responsive to our verification phone calls and who referred the names of other Latino elected officials. Many of these individuals generously gave of their time to review sections of the *Directory* to help ensure its accuracy and completeness.

Additionally, we wish to acknowledge the many significant contributions made by the late Dr. Harry Pachon, who laid the foundation for the *Rosters* that preceded the *Directory* and guided their development during his tenure as the NALEO Educational Fund's Executive Director. Finally, we are grateful to the members of the NALEO Educational Fund staff for their efforts on the *Directory*. First, we extend a special thanks to Martha Recio, who coordinated the entire *Directory* production process, and personally conducted a significant amount of the elected official verification. We also appreciate the contributions of Guillermo R. Morales, who assisted with verification and proof-reading; Doris Parfaite-Claude, who also assisted with proof-reading; and Rosalind Gold who provided overall guidance for the publication of the *Directory*. The NALEO Educational Fund is grateful to all those individuals who helped make the *Directory* a successful reality.

METHODOLOGY

Since 1984, the NALEO Educational Fund has conducted an annual verification to ascertain the number of Latino elected officials nationwide. To initiate the enumeration process, the NALEO Educational Fund turned first to its own constituency, Latino elected officials identified during past verifications. Potential Latino office holders were also identified through state and local government directories and World Wide Web sites on the Internet, major newspapers' listings of national and local election results, and membership lists of national, state and local organizations.

Because turnover in elected office occurs so frequently, the NALEO Educational Fund also conducted an extensive phone verification process. The NALEO Educational Fund staff contacted all Latino elected officials identified by phone or email, and more than 5,000 inquiries were completed during the verification period. Typically, questions asked in the verification process included "Is the office holder Latino?" and "Does he or she know of other Latino elected office holders in the jurisdiction?" In the overwhelming majority of cases, the individuals contacted were cooperative with the NALEO Educational Fund staff, generously providing mailing addresses, telephone numbers, e-mail addresses, fax numbers, party affiliations, term of office expiration dates, and demographics of Latino office holders.

The phone verification process proved invaluable. Many individuals having Spanish surnames were in fact, not Latino. Conversely, other individuals with non-Spanish surnames were identified as being Latino.

As noted in the "Preface," in 1996, the NALEO Educational Fund changed its methodology for the compilation of information about Latino elected officials. The 2015 *Directory* generally includes only those elected officials who were in office as of January 2015. Thus, although the *Directory* contains some basic data on Latino elected officials for the nation as a whole and each state, the data in the *Directory* should not be used to make statistical comparisons with the data in the *National Rosters of Hispanic Elected Officials* published by the NALEO Educational Fund between 1984 and 1994.

Additionally, past *Rosters* and *Directories* included a listing of Latino Chicago Local School Councilmembers (LSC's) in the Illinois section. However, the NALEO Educational Fund found that the number of Latino LSC's fluctuates widely from year to year, and their inclusion in the statistics presented in the *Directory* created questions about using *Directory* data to make comparisons between different states and different time periods. To enhance the comparability of *Directory* data, the NALEO Educational Fund decided to discontinue the inclusion of statistics about LSC's and their listing in its *Directory*.

Although the NALEO Educational Fund employed an extensive variety of methods to identify Latino office holders, and we are highly confident of the names included, as a result of the frequent turnover in elected offices, the *Directory* may contain some errors or omissions. It is our hope that in future editions of the *Directory*, these errors will be corrected. All readers of the *Directory* are urged to contact Martha Recio of the NALEO Educational Fund by phone at (213) 747-7606, ext. 4448, or by e-mail at mrecio@naleo.org, to provide information on Latino elected officials not currently included.

DIRECTORY GUIDE

The *Directory's* Excel database uses a letter code to indicate elected officials' level of office, and abbreviations to indicate their party affiliation. The following is a guide to this coding:

Level of Office

- "A" - U.S. Senator
- "a" - U.S. Representative
- "b" - Governor
- "c" - State Executive
- "d" - State Senator
- "e" - State Representative or Assemblymember
- "f" - County Official
- "g" - Municipal Official
- "h" - Judicial/Law Enforcement Official
- "i" - Education/School Board Official
- "x" - Special District Official

Party Affiliation

- DEM -- Democrat
- GOP -- Republican
- IND -- Independent
- N-P -- Non-partisan
- * -- No party affiliation indicated

In the statistical tables for each state, "HEOs" refers to Hispanic Elected Officials.

Latino Members of Congress

Latino Members of Congress

U.S. Senators

Ted Cruz (R-TX)

Washington office:
United States Senate
404 Russell Senate Office Bldg.
Washington, DC 20510
202-224-5922
202-228-0755 (fax)
www.cruz.senate.gov

District Office:
300 E. 8th, Ste. 961
Austin, TX 78701
512-916-5834

Robert Menendez (D-NJ)

Washington office:
United States Senate
528 Hart Senate Office Bldg.
Washington, DC 20510
202-224-4744
202-228-2197 (fax)
www.menendez.senate.gov

District office:
One Gateway Center, Ste. 1100
Newark, NJ 07102
973-645-3030
973-645-0502 (fax)

Marco Rubio (R-FL)

Washington office:
United States Senate
284 Russell Senate Office Bldg.
Washington, DC 20510
202-224-3041
202-228-0285 (fax)
www.rubio.senate.gov

District office:
8669 NW 36th St., Ste. 110
Miami, FL 33166
305-418-8553
305-594-4014 (fax)

U.S. Representatives

Pete Aguilar (D-CA)

31st District

Washington office:
U.S. House of Representatives
1223 Longworth House Office Bldg.
Washington, DC 20515
202-225-3201
202-225-6962 (fax)
http://aguilar.house.gov

District office:
8300 Utica Ave., Ste. 105
Rancho Cucamonga, CA 91730
909-980-1492
909-980-1651 (fax)

Xavier Becerra (D-CA)

34th District

Washington office:
U.S. House of Representatives
1226 Longworth House Office Bldg.
Washington, DC 20515
202-225-6235
202-225-2202 (fax)
http://becerra.house.gov

District office:
350 S. Bixel St., Ste. 120
Los Angeles, CA 90017
213-481-1425
213-481-1427 (fax)

Gregorio Kilili Camacho Sablan (D-MP)

Congressman

Washington office:
U.S. House of Representatives
423 Cannon House Office Building
Washington, DC 20515
202-225-2646
202-226-4249 (fax)
http://sablan.house.gov

District office:
P.O. Box 504879
Saipan, MP 96950
670-323-2647
670-323-2649 (fax)

Tony Cárdenas (D-CA)

29th District

Washington office:
U.S. House of Representatives
1510 Longworth House Office Bldg.
Washington, DC 20515
202-225-6131
202-225-0819 (fax)
http://cardenas.house.gov

District office:
8134 Van Nuys Blvd., Ste. 206
Panorama City, CA 91402
818-781-7407
818-781-7462 (fax)

Joaquin Castro (D-TX)

20th District

Washington office:
U.S. House of Representatives
212 Cannon House Office Bldg.
Washington, DC 20515
202-225-3236
202-225-1915 (fax)
http://castro.house.gov

District office:
727 E. Chavez Blvd., Ste. B-128
San Antonio, TX 78206
210-348-8216
210-979-0737 (fax)

Henry Cuellar (D-TX)

28th District

Washington Office
U.S. House of Representatives
2209 Rayburn House Office Bldg.
Washington, DC 20515
202-225-1640
202-225-1641 (fax)
http://cuellar.house.gov

District office:
615 E. Houston St., Ste. 563
San Antonio, TX 78205
210-271-2851
210-277-6671 (fax)

Latino Members of Congress, con't.

Carlos Curbelo (R-FL)
26th District

Washington Office:
U.S. House of Representatives
1429 Longworth House Office Bldg.
Washington, DC 20515
202-225-2778
<http://curbelo.house.gov>

District office:
12851 SW 42nd St., Ste. 131
Miami, FL 33175
305-222-0160
305-228-9397(fax)

Mario Diaz-Balart (R-FL)
25th District

Washington Office:
U.S. House of Representatives
440 Cannon House Office Bldg.
Washington, DC 20515
202-225-4211
202-225-8576 (fax)
<http://mariodiazbalart.house.gov>

District office:
8669 NW 36th St., Ste. 100
Doral, FL 33166
305-470-8555
305-470-8575 (fax)

Bill Flores (R-TX)
17th District

Washington office:
U.S. House of Representatives
1030 Longworth House Office Bldg.
Washington, DC 20515
202-225-6105
202-225-0350 (fax)
<http://flores.house.gov>

District office:
400 Austin Ave., Ste. 302
Waco, TX 76701
254-732-0748
254-732-1755 (fax)

Grace Flores Napolitano (D-CA)
32nd District

Washington office:
U.S. House of Representatives
1610 Longworth House Office Bldg.
Washington, DC 20515
202-225-5256
202-225-0027 (fax)
<http://napolitano.house.gov>

District office:
4401 Santa Anita Ave., Ste. 201
El Monte, CA 91731
626-350-0150
626-350-0450 (fax)

Ruben Gallego (D-AZ)
7th District

Washington office:
U.S. House of Representatives
1218 Longworth House Office Bldg.
Washington, DC 20515
202-225-4065
<http://rubengallego.house.gov>

District office:
411 N. Central Ave., Ste. 150
Phoenix, AZ 85004
602-256-0551
602-257-9103 (fax)

Raúl M. Grijalva (D-AZ)
3rd District

Washington office:
U.S. House of Representatives
1511 Longworth House Office Bldg.
Washington, DC 20515
202-225-2435
202-225-1541 (fax)
<http://grijalva.house.gov>

District office:
738 N. 5th Ave., Ste. 110
Tucson, AZ 85705
520-622-6788
520-622-0198 (fax)

Luis V. Gutierrez (D-IL)
4th District

Washington office:
U.S. House of Representatives
2408 Rayburn House Office Bldg.
Washington, DC 20515
202-225-8203
202-225-7810 (fax)
<http://gutierrez.house.gov>

District office:
3240 W. Fullerton Ave.
Chicago, IL 60647
773-342-0774
773-342-0776 (fax)

Jaime Herrera-Beutler (R-WA)
3rd District

Washington office:
U.S. House of Representatives
1130 Longworth House Office Bldg.
Washington, DC 20515
202-225-3536
202-225-3478 (fax)
<http://herrerabeutler.house.gov>

District office:
750 Anderson St., Ste. B
Vancouver, WA 98661
360-695-6292
360-695-6197 (fax)

Rubén Hinojosa (D-TX)
15th District

Washington office:
U.S. House of Representatives
2262 Rayburn House Office Bldg.
Washington, DC 20515
202-225-2531
202-225-5688 (fax)
<http://hinojosa.house.gov>

District office:
2864 W. Trenton Rd.
Edinburg, TX 78539
956-682-5545
956-682-0141 (fax)

Latino Members of Congress, con't.

Raúl R. Labrador (R-ID)
1st District

Washington office:
U.S. House of Representatives
1523 Longworth House Office Bldg.
Washington, DC 20515
202-225-6611
202-225-3029 (fax)
<http://labrador.house.gov>

District office:
33 E. Broadway Ave., Ste. 251
Meridian, ID 83642
208-888-3188
208-888-0894 (fax)

Alex X. Mooney (R-WV)
2nd District

Washington office:
U.S. House of Representatives
1232 Longworth House Office Bldg.
Washington, DC 20515
202-225-2711
202-225-7856 (fax)
<http://mooney.house.gov>

District office:
405 Capitol St., Ste. 514
Charleston, WV 25301
304-925-5964

Lucille Roybal-Allard (D-CA)
40th District

Washington office:
U.S. House of Representatives
2330 Rayburn House Office Bldg.
Washington, DC 20515
202-225-1766
202-226-0350 (fax)
<http://roybal-allard.house.gov>

District office:
500 Citadel Dr., Ste. 320
Commerce, CA 90040
323-721-8790
323-721-8789 (fax)

Ben Ray Luján (D-NM)
3rd District

Washington office:
U.S. House of Representatives
2446 Rayburn House Office Bldg.
Washington, DC 20515
202-225-6190
202-226-1528 (fax)
<http://lujan.house.gov>

District office:
1611 Calle Lorca, Ste. A
Santa Fe, NM 87505
505-984-8950
505-986-5047 (fax)

Pedro R. Pierluisi (D-PR)
Resident Commissioner

Washington office:
U.S. House of Representatives
2410 Rayburn House Office Bldg.
Washington, DC 20515
202-225-2615
202-225-2154 (fax)
<http://pierluisi.house.gov>

District office:
Edificio de Medicina Tropical
Avenida Juan Ponce De León
San Juan, PR 00901
787-723-6333
787-729-7738 (fax)

Raul Ruiz (D-CA)
36th District

Washington office:
U.S. House of Representatives
1319 Longworth House Office Bldg.
Washington, DC 20515
202-225-5330
202-225-1238 (fax)
<http://ruiz.house.gov>

District office:
43875 Washington St., Ste. F
Palm Desert, CA 92211
760-424-8888
760-424-8993 (fax)

Michelle Lujan Grisham (D-NM)
1st District

Washington office:
U.S. House of Representatives
214 Cannon House Office Bldg.
Washington, DC 20515
202-225-6316
202-226-4975 (fax)
<http://lujangrisham.house.gov>

District office:
400 Gold Ave. SW, Ste. 680
Albuquerque, NM 87102
505-346-6781
505-346-6723 (fax)

Ileana Ros-Lehtinen (R-FL)
27th District

Washington office:
U.S. House of Representatives
2206 Rayburn House Office Bldg.
Washington, DC 20515
202-225-3931
202-225-5620 (fax)
<http://ros-lehtinen.house.gov>

District office:
4960 SW 72 Ave., Ste. 208
Miami, FL 33155
305-668-2285
305-668-5970 (fax)

Linda T. Sanchez (D-CA)
38th District

Washington office:
U.S. House of Representatives
2329 Rayburn House Office Bldg.
Washington, DC 20515
202-225-6676
202-226-1012 (fax)
<http://lindasanchez.house.gov>

District office:
17906 Crusader Ave., Ste. 100
Cerritos, CA 90703
562-860-5050
562-924-2914 (fax)

Latino Members of Congress, con't.**Loretta Sanchez (D-CA)**

46th District

Washington office:
 U.S. House of Representatives
 1211 Longworth House Office Bldg.
 Washington, DC 20515
 202-225-2965
 202-225-5859 (fax)
www.lorettasanchez.house.gov

District office:
 12397 Lewis St., Ste. 101
 Garden Grove, CA 92840
 714-621-0102
 714-621-0401 (fax)

José E. Serrano (D-NY)

15th District

Washington office:
 U.S. House of Representatives
 2227 Rayburn House Office Bldg.
 Washington, DC 20515
 202-225-4361
 202-225-6001 (fax)
<http://serrano.house.gov>

District office:
 1231 Lafayette Ave., 4th Fl.
 Bronx, NY 10474
 718-620-0084
 718-620-0658 (fax)

Albio Sires (D-NJ)

8th District

Washington office:
 U.S. House of Representatives
 2342 Rayburn House Office Bldg.
 Washington, DC 20515
 202-225-7919
 202-226-0792 (fax)
<http://sires.house.gov>

District office:
 121 Newark Ave., Ste. 200
 Jersey City, NJ 07302
 201-309-0301
 201-309-0384 (fax)

Norma Torres (D-CA)

35th District

Washington office:
 U.S. House of Representatives
 516 Cannon House Office Bldg.
 Washington, DC 20515
 202-225-6161
 202-225-8671 (fax)
<http://torres.house.gov>

District office:
 3200 Inland Empire Blvd.,
 Ste. 200B
 Ontario, CA 91764
 909-481-6474
 909-941-1362 (fax)

Juan Vargas (D-CA)

51st District

Washington office:
 U.S. House of Representatives
 1605 Longworth House Office Bldg.
 Washington, DC 20515
 202-225-8045
 202-225-2772 (fax)
www.vargas.house.gov

District office:
 333 F St., Ste. A
 Chula Vista, CA 91910
 619-422-5963
 619-422-7290 (fax)

Filemon Vela (D-TX)

34th District

Washington office:
 U.S. House of Representatives
 437 Cannon House Office Bldg.
 Washington, DC 20515
 202-225-9901
 202-225-9770 (fax)
<http://vela.house.gov>

District office:
 500 E. Main
 Alice, TX 78332
 956-544-8352

Nydia M. Velázquez (D-NY)

7th District

Washington office:
 U.S. House of Representatives
 2302 Rayburn House Office Bldg.
 Washington, DC 20515
 202-225-2361
 202-226-0327 (fax)
<http://velazquez.house.gov>

District office:
 266 Broadway, Ste. 201
 Brooklyn, NY 11211
 718-599-3658
 718-599-4537 (fax)

United States

Total HEOs: **6,124^a** Total HEOs at Federal and State Level: **349**

<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Senators	3	-	3	1	-	2	-	-	-	-	-	-	-
U.S. Representatives	20	9	29	15	7	5	2	-	-	-	-	-	-
State Officials ^b	8	4	12	3	1	5	3	-	-	-	-	-	-
State Senators	51	23	74	44	21	7	2	-	-	-	-	-	-
State Representatives	158	73	231	115	61	43	12	-	-	-	-	-	-
County Officials	304	230	534	157	133	22	23	122	70	-	-	3	4
Municipal Officials	1,230	570	1,800	172	93	16	10	812	361	2	-	228	106
Judicial/Law Enforcement	596	264	860	273	100	28	8	236	119	-	-	59	37
Education/School Board ^a	1,388	954	2,342	83	74	8	5	1,086	734	2	2	209	139
Special District Officials ^b	180	59	239	9	2	-	-	146	45	-	-	25	12
<i>Sub-Totals</i>	3,938	2,186	6,124	872	492	136	65	2,402	1,329	4	2	524	298
TOTALS	6,124			1,364		201		3,731		6		822	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office
M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

^a Does not include Chicago Local School Councilmembers (LSC's). The number of Latino LSC's fluctuates widely from year to year, and their inclusion in the statistics presented in the *Directory* has created questions about using *Directory* data to make comparisons between different states and different time periods. To enhance the comparability of *Directory* data, the NALEO Educational Fund decided to discontinue the inclusion of statistics about LSC's in its *Directory*.

Additionally, in 2004, New York City replaced its community school boards with 32 community education councils, each governing a community school district. Members of the public elected representatives to the community school boards, and past *Directories* included those representatives as elected officials. However, for the reasons set forth in the note on page 13, we do not classify the members of the new community education councils as elected officials. This change should be taken into account when making comparisons between data in this *Directory* and those of previous years.

^b In *Directories* published before 2001, Latino elected officials who were elected statewide or who served on certain state governing boards were classified as "State Executives." Starting with the *2001 Directory*, "State Officials" replaced the category of "State Executives," and includes only those state officials who are elected statewide. As a result, the Public Regulation Commissioners of New Mexico who were formerly included in the category of "State Executives" in earlier *Directories* have now been included in the category of "Special District Officials," and this reclassification should be taken into account when making comparisons between data in this *Directory* and those of previous years.

Additionally, the foregoing data pertain to the Latino elected officials who held office as of June 2015 (for state legislators) or as of January 2015 (for all other elected officials). As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

Arizona

		Total HEOs: 350		Total HEOs at Federal and State Level: 22									
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	2	-	2	2	-	-	-	-	-	-	-	-	-
State Officials	-	-	-	-	-	-	-	-	-	-	-	-	-
State Senators	3	2	5	3	2	-	-	-	-	-	-	-	-
State Representatives	9	6	15	6	6	3	-	-	-	-	-	-	-
County Officials	12	7	19	6	5	-	-	6	2	-	-	-	-
Municipal Officials	79	30	109	9	7	-	-	61	23	-	-	9	-
Judicial/Law Enforcem.	32	14	46	9	5	1	-	22	9	-	-	-	-
Education/School Board	74	73	147	13	11	1	-	56	57	-	-	4	5
Special District Officials	6	1	7	-	-	-	-	6	1	-	-	-	-
<i>Sub-Totals</i>	217	133	350	48	36	5	-	151	92	-	-	13	5
TOTALS	350			84		5		243		-		18	

DEM: Democratic office

GOP: Republican office

* : No party stated

IND: Independent office

N/P: Non-partisan office

M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

California

Total HEOs: 1,377				Total HEOs at Federal and State Level: 34									
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	5	5	10	5	5	-	-	-	-	-	-	-	-
State Officials	1	-	1	1	-	-	-	-	-	-	-	-	-
State Senators	5	-	5	5	-	-	-	-	-	-	-	-	-
State Representatives	13	5	18	11	5	2	-	-	-	-	-	-	-
County Officials	22	9	31	5	2	-	-	16	5	-	-	1	2
Municipal Officials	248	137	385	39	28	4	3	145	75	-	-	60	31
Judicial/Law Enforcem.	57	21	78	5	1	1	-	16	2	-	-	35	18
Education/School Board	374	353	727	30	33	4	2	288	273	1	-	51	45
Special District Officials	90	32	122	3	1	-	-	82	29	-	-	5	2
<i>Sub-Totals</i>	815	562	1,377	104	75	11	5	547	384	1	-	152	98
TOTALS	1,377			179		16		931		1		250	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office
M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

Colorado

Total HEOs: 155 Total HEOs at Federal and State Level: 12													
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	-	-	-	-	-	-	-	-	-	-	-	-	-
State Officials	1	-	1	1	-	-	-	-	-	-	-	-	-
State Senators	2	3	5	2	3	-	-	-	-	-	-	-	-
State Representatives	4	2	6	4	1	-	1	-	-	-	-	-	-
County Officials	12	14	26	9	9	2	3	1	2	-	-	-	-
Municipal Officials	30	28	58	1	3	-	-	15	15	-	-	14	10
Judicial/Law Enforcem.	11	5	16	2	-	1	-	1	-	-	-	7	5
Education/School Board	21	14	35	-	1	-	-	6	6	-	-	15	7
Special District Officials	6	2	8	-	-	-	-	1	-	-	-	5	2
<i>Sub-Totals</i>	87	68	155	19	17	3	4	24	23	-	-	41	24
TOTALS	155			36		7		47		-		65	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office

M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the “Methodology” section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund’s *National Roster of Hispanic Elected Officials*.

Florida

Total HEOs: **179**

Total HEOs at Federal and State Level:

26

<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
				U.S. Senators	1	-	1	-	-	1	-	-	-
U.S. Representatives	2	1	3	-	-	2	1	-	-	-	-	-	-
State Officials	1	-	1	-	-	1	-	-	-	-	-	-	-
State Senators	3	1	4	1	-	2	1	-	-	-	-	-	-
State Representatives	15	2	17	3	1	12	1	-	-	-	-	-	-
County Officials	9	4	13	-	1	4	2	4	1	-	-	1	-
Municipal Officials	57	23	80	2	-	3	3	33	16	-	-	19	4
Judicial/Law Enforcem.	23	28	51	-	-	-	-	23	28	-	-	-	-
Education/School Board	3	4	7	1	1	-	2	2	1	-	-	-	-
Special District Officials	-	2	2	-	-	-	-	-	1	-	-	-	1
<i>Sub-Totals</i>	114	65	179	7	3	25	10	62	47	-	-	20	5
TOTALS	179			10		35		109		-		25	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office

M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

Illinois

Total HEOs: 117^a Total HEOs at Federal and State Level: 15													
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	1	-	1	1	-	-	-	-	-	-	-	-	-
State Officials	-	1	1	-	-	-	1	-	-	-	-	-	-
State Senators	3	1	4	3	1	-	-	-	-	-	-	-	-
State Representatives	5	4	9	4	4	1	-	-	-	-	-	-	-
County Officials	7	4	11	4	3	-	-	3	1	-	-	-	-
Municipal Officials	34	17	51	11	3	-	-	18	10	-	-	5	4
Judicial/Law Enforcem.	7	8	15	-	2	-	-	7	5	-	-	-	1
Education/School Board ^a	10	7	17	2	-	-	-	6	5	-	-	2	2
Special District Officials	6	2	8	-	-	-	-	5	1	-	-	1	1
Sub-Totals	73	44	117	25	13	1	1	39	22	-	-	8	8
TOTALS	117			38		2		61		-		16	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office

M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the “Methodology” section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund’s *National Roster of Hispanic Elected Officials*.

^a Does not include Chicago Local School Councilmembers (LSC’s). The number of Latino LSC’s fluctuates widely from year to year, and their inclusion in the statistics presented in the *Directory* has created questions about using *Directory* data to make comparisons between different states and different time periods. To enhance the comparability of *Directory* data, the NALEO Educational Fund decided to discontinue the inclusion of statistics about LSC’s in its *Directory*.

New Jersey

Total HEOs: 134 Total HEOs at Federal and State Level: 13													
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Senators	1	-	1	1	-	-	-	-	-	-	-	-	-
U.S. Representatives	1	-	1	1	-	-	-	-	-	-	-	-	-
State Officials	-	-	-	-	-	-	-	-	-	-	-	-	-
State Senators	-	3	3	-	3	-	-	-	-	-	-	-	-
State Representatives	3	5	8	3	4	-	1	-	-	-	-	-	-
County Officials	6	3	9	3	2	-	-	3	1	-	-	-	-
Municipal Officials	52	18	70	15	7	1	-	23	8	-	-	13	3
Judicial/Law Enforcem.	-	1	1	-	-	-	-	-	1	-	-	-	-
Education/School Board	24	17	41	-	2	-	-	22	11	-	-	2	4
Special District Officials	-	-	-	-	-	-	-	-	-	-	-	-	-
<i>Sub-Totals</i>	87	47	134	23	18	1	1	48	21	-	-	15	7
TOTALS	134			41		2		69		-		22	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office
M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

New Mexico

Total HEOs: **700** Total HEOs at Federal and State Level: **54**

<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	1	1	2	1	1	-	-	-	-	-	-	-	-
State Officials	2	2	4	1	-	1	2	-	-	-	-	-	-
State Senators	14	2	16	13	2	1	-	-	-	-	-	-	-
State Representatives	21	11	32	15	7	6	4	-	-	-	-	-	-
County Officials	64	42	106	42	22	6	7	16	13	-	-	-	-
Municipal Officials	165	59	224	27	3	3	1	113	40	-	-	22	15
Judicial/Law Enforcem.	77	40	117	51	19	7	4	17	14	-	-	2	3
Education/School Board	100	59	159	4	1	1	-	75	42	-	-	20	16
Special District Officials	33	7	40	2	1	-	-	28	5	-	-	3	1
<i>Sub-Totals</i>	477	223	700	156	56	25	18	249	114	-	-	47	35
TOTALS	700			212		43		363		-		82	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office
M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

¹In *Directories* published before 2001, Latino elected officials who were elected statewide or who served on certain state governing boards were classified as “State Executives.” Starting with the *2001 Directory*, “State Officials” replaced the category of “State Executives,” and includes only those state officials who are elected statewide. As a result, the Public Regulation Commissioners of New Mexico who were formerly included in the category of “State Executives” in earlier *Directories* have now been included in the category of “Special District Officials,” and this reclassification should be taken into account when making comparisons between data in this *Directory* and those of previous years.

Generally, the foregoing data pertain to the Latino elected officials who held office as of June 2015 (for state legislators) and as of January 2015 (for all other elected officials). As noted in the “Methodology” section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund’s *National Roster of Hispanic Elected Officials*.

New York

Total HEOs: 172^a Total HEOs at Federal and State Level: 24													
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Representatives	1	1	2	1	1	-	-	-	-	-	-	-	-
State Officials	-	-	-	-	-	-	-	-	-	-	-	-	-
State Senators	6	-	6	6	-	-	-	-	-	-	-	-	-
State Representatives	12	4	16	11	3	1	1	-	-	-	-	-	-
County Officials	4	4	8	2	4	2	-	-	-	-	-	-	-
Municipal Officials	41	13	54	21	9	-	-	17	3	-	-	3	1
Judicial/Law Enforcem.	26	21	47	8	8	2	-	16	13	-	-	-	-
Education/School Board ^a	22	16	38	2	1	-	-	15	8	-	-	5	7
Special District Officials	-	1	1	-	-	-	-	-	1	-	-	-	-
<i>Sub-Totals</i>	112	60	172	51	26	5	1	48	25	-	-	8	8
TOTALS	172			77		6		73		-		16	

DEM: Democratic office GOP: Republican office * : No party stated IND: Independent office N/P: Non-partisan office
M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of January 2015. As noted in the “Methodology” section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund’s *National Roster of Hispanic Elected Officials*.

^aIn 2004, New York City replaced its community school boards with 32 community education councils, each governing a community school district. Members of the public elected representatives to the community school boards, and past *Directories* included those representatives as elected officials. Members of the new community education councils are selected by either officers of the community school district’s parent and parent-teacher associations; the borough president; or the community superintendent. Thus, we do not classify community education councilmembers as elected officials. The 2003 *Directory* included 31 Latino New York City community school board members. As a result of the replacement of the school boards with educational councils, the 2015 *Directory* does not include any Latinos serving in comparable elected office. This change should be taken into account when making comparisons between data in this *Directory* and those of previous years.

Texas

Total HEOs: 2,536 Total HEOs at Federal and State Level: 49													
<i>Level of Office</i>	Male	Fem.	TOTAL	DEM		GOP		*		IND		N/P	
				M	F	M	F	M	F	M	F	M	F
U.S. Senators	1	-	1	-	-	1	-	-	-	-	-	-	-
U.S. Representatives	5	-	5	4	-	1	-	-	-	-	-	-	-
State Officials	1	-	1	-	-	1	-	-	-	-	-	-	-
State Senators	5	2	7	5	2	-	-	-	-	-	-	-	-
State Representatives	28	7	35	23	7	5	-	-	-	-	-	-	-
County Officials	162	127	289	84	75	6	8	72	44	-	-	-	-
Municipal Officials	436	190	626	22	14	2	2	355	148	1	-	56	26
Judicial/Law Enforcem.	333	116	449	193	65	15	4	124	46	-	-	1	1
Education/School Board	708	364	1,072	24	14	2	1	587	302	1	2	94	45
Special District Officials	39	12	51	4	-	-	-	24	7	-	-	11	5
<i>Sub-Totals</i>	1,718	818	2,536	359	177	33	15	1,162	547	2	2	162	77
TOTALS	2,536			536		48		1,709		4		239	

DEM: Democratic office

GOP: Republican office

* : No party stated

IND: Independent office

N/P: Non-partisan office

M: Male F: Female

Source: NALEO Educational Fund, *2015 National Directory of Latino Elected Officials*

Generally, the foregoing data pertain to the Latino elected officials who held office as of June 2015 (for state legislators) and as of January 2015 (for all other elected officials). As noted in the "Methodology" section on page iv of this *Directory*, these data should not be used to make statistical comparisons with data contained in previous editions of the NALEO Educational Fund's *National Roster of Hispanic Elected Officials*.

EXHIBIT 15



Former Governors' Bios

All

<< 1 2 >>

Governor's Name	State	Time in Office	Party
Gov. Raul H. Castro	Arizona	(1975 - 1977)	Democrat
Gov. Romualdo Pacheco	California	(1875 - 1875)	Republican
Gov. Robert Martinez	Florida	(1987 - 1991)	Democrat, Republican
Gov. Susana Martinez	New Mexico	(2011)	Republican
Gov. Bill Richardson	New Mexico	(2003 - 2011)	Democrat
Gov. Toney Anaya	New Mexico	(1983 - 1987)	Democrat
Gov. Jerry Apodaca	New Mexico	(1975 - 1979)	Democrat
Gov. Octaviano Ambrosio Larrazolo	New Mexico	(1919 - 1921)	Republican
Gov. Ezequiel Cabeza De Baca	New Mexico	(1917 - 1917)	Democratic
Gov. Luis G. Fortuño	Puerto Rico	(2009 - 2013)	Republican

<< 1 2 >>

Search Governors

EXHIBIT 16

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

LESLIE FELDMAN, et al.,)	
)	
)	
Plaintiffs,)	
)	
)	
vs.	)	No. CV-16-1065-PHX-DLR
)	
)	
ARIZONA SECRETARY OF)	
STATE'S OFFICE, et al.,)	
)	
)	
Defendants.)	
_____)	

DEPOSITION OF RANDY PARRAZ

Phoenix, Arizona
July 7, 2016
1:03 p.m.

Prepared by:	CARRIE REPORTING, LLC
MICHAELA H. DAVIS	Certified Reporters
Registered Professional Reporter	4032 North Miller Road
Certified Realtime Reporter	Suite A-100
Certified LiveNote Reporter	Scottsdale, AZ 85251
AZ CR No. #50574	(480) 429-7573

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I N D E X

WITNESS	PAGE
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BY MS. AGNE	4
BY MS. HARTMAN-TELLEZ	117

* * *

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1	Declaration of Randy Parraz in Support of Plaintiffs' Motion for Preliminary Injunction	75
2	Printout of Arizona Revised Statute 16-549	90
3	Printout of 1986 Arizona Attorney General Opinion	93
4	Modern Times Magazine article dated February 20, 2015 entitled "Parraz, Citizens For A Better Arizona, Calls It Quits"	97
5	Think Progress article dated April 5, 2016 entitled "Arizona Primary Voting was Such a Mess that DOJ is Opening an Investigation"	99
6	Capitol Times article dated October 31, 2014 entitled "Ballot Harvest: Video Sparks New Debate Over Bulk Voting Technique"	105
7	State of Arizona House Bill 2023	112

* * *

1 DEPOSITION OF RANDY PARRAZ commenced at 1:03 p.m. on
2 July 7, 2016 at the law offices of SNELL & WILMER, ONE
3 ARIZONA CENTER, 400 EAST VAN BUREN, PHOENIX, ARIZONA,
4 before MICHAELA HERMAN DAVIS, a Certified Reporter, in and
5 for the County of Maricopa, State of Arizona.

6

7

* * *

8

A P P E A R A N C E S

9 FOR THE INTERVENOR-DEFENDANTS ARIZONA REPUBLICAN PARTY,
10 BILL GATES, SUZANNE KLAPP, DEBBIE LESKO, AND TONY RIVERO:

11

SNELL & WILMER
BY: MS. SARA J. AGNE
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, ARIZONA 85004-2202

12

13

FOR DEFENDANTS ATTORNEY GENERAL, SECRETARY OF STATE, AND
14 THE SECRETARY OF STATE'S OFFICE:

15

OFFICE OF THE ATTORNEY GENERAL
BY: MS. KAREN J. HARTMAN-TELLEZ
STATE OF ARIZONA
1275 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

16

17

18 FOR THE PLAINTIFFS:

19

PERKINS COIE, LLP
BY: MR. DANIEL C. BARR
MS. SARAH R. GONSKI
2901 NORTH CENTRAL AVENUE
SUITE 2000
PHOENIX, ARIZONA 85012

20

21

22

FOR INTERVENOR-PLAINTIFF BERNIE 2016, INC.:

23

24

COPPERSMITH BROCKELMAN PCL
BY: MR. ANDREW S. GORDON
2800 NORTH CENTRAL AVENUE
SUITE 1200
PHOENIX, ARIZONA 85004

25

25

1 Phoenix, Arizona
2 July 7, 2016
3 1:03 p.m.

4 RANDY PARRAZ, called as a witness herein,
5 having been first duly sworn, was examined and testified
6 as follows:

7 * * *

8 E X A M I N A T I O N

9 BY MS. AGNE:

10 Q. Mr. Parraz, I'm Sara Agne. I represent the
11 Arizona Republican Party in the matter of Feldman versus
12 Arizona Secretary of State. And you're here today to
13 answer some questions because you gave a declaration in
14 that matter.

15 Do you understand that?

16 A. Yeah, I do.

17 Q. And could you give me -- could you actually
18 state and spell your name for the record, please?

19 A. Sure. Randy Parraz, R-A-N-D-Y P-A-R-R-A-Z.

20 Q. And could you talk to me a little bit about your
21 background, what you do currently for work?

22 A. Currently, I work with the United Food and
23 Commercial Workers International Union.

24 Q. And what do you do for the union?

25 A. I'm the national campaign director for the

1 not ill.

2 Q. So voters who could have voted at the polls?

3 A. Yes.

4 Q. Or voters who could have mailed in their ballot?

5 A. All voters can mail in their ballot.

6 Q. Were there typical reasons voters would give the
7 organization for not mailing in their ballot?

8 A. Yes.

9 Q. What were those?

10 A. One, they didn't think their vote mattered.

11 Two, was inconvenient. Three, they would forget. Those
12 are some of the main reasons they did it. But I think the
13 primary thing was that they didn't feel their vote
14 mattered. So whether mail-in ballot or going to show up
15 at the polls, the election didn't have much meaning to
16 them.

17 Q. So what would volunteers say in response to that
18 when the voter said I don't plan to vote, my vote doesn't
19 have much meaning so why vote?

20 A. We would then explain to them why their vote is
21 important. We would ask them to vote. Some of the
22 research we've done in terms of the more reason why you
23 can get someone to vote is when you ask them. A lot of
24 these folks were never asked to vote. These weren't folks
25 who were traditionally targeted by major campaigns to

1 to collect ballots through other advocacy organizations,
2 and unless HB2023 is in effect, I intend to do so for the
3 2016 general election."

4 Is that an accurate statement of what
5 paragraph 10 says?

6 A. Yes.

7 Q. And do you agree that that -- do you stand by
8 this paragraph?

9 A. Yes.

10 Q. Okay. HB2023 was signed by the governor on
11 March 9, 2016. Since that time, have you engaged in voter
12 engagement activity?

13 A. No.

14 Q. Do you intend to engage in voter engagement
15 activity before the -- or for the 2016 primary or general
16 election?

17 A. Yes.

18 Q. So do you believe that HB2023 will prohibit you
19 from talking to people about issues or candidates in the
20 upcoming elections?

21 A. No.

22 Q. Will HB2023 prohibit you from assisting citizens
23 with registering to vote for the upcoming elections?

24 A. No.

25 Q. Will HB2023 prohibit you from helping citizens

1 request early ballots?

2 A. No.

3 Q. Will HB2023 prohibit you from helping citizens
4 get on the permanent early voter list?

5 A. No.

6 Q. Will HB2023 prohibit you from assisting voters
7 who request your assistance in completing their ballots?

8 A. No.

9 Q. Will HB2023 prohibit you from telling voters
10 what the deadline is for returning an early ballot?

11 A. No.

12 Q. Will HB2023 prohibit you from telling voters the
13 numerous ways that they may return their early ballots?

14 A. No.

15 Q. And just to expand on that, do you know the ways
16 one can return an early ballot?

17 A. Excuse me?

18 Q. Do you know the different ways one can return an
19 early ballot?

20 A. I mean, the ones that I'm aware of are early
21 voting locations. They can drop it off at the county
22 recorder office. They can drop it off at the precinct
23 location. In terms of their ballot, they can mail it in.

24 Q. When you say they can drop it off at a precinct
25 location, do you mean on election day?

1 A. Yes.

2 Q. And do you understand that a voter can drop off
3 a voted and sealed early ballot at any --

4 A. It's changing as we go along, yes.

5 Q. Will HB -- HB2023 will not prohibit you from
6 telling voters that early ballots returned by mail will be
7 counted if returned on time, will it?

8 A. No.

9 Q. And HB2023 will not prohibit you from telling
10 voters how they may vote early other than by mail-in
11 ballot, will it?

12 A. No.

13 Q. HB2023 will not prohibit you from assisting
14 voters who are eligible to obtain assistance in casting a
15 ballot under ARS 16-549? That was the statute that's
16 marked as Exhibit 2. It won't prohibit from you helping
17 them; someone who is eligible to use the procedures in
18 that statute?

19 MR. BARR: Object to the form.

20 MS. HARTMEN-TELLEZ: I will try that again.

21 MR. BARR: How about this: It won't prevent
22 you from doing anything that has nothing to do with
23 collecting ballots?

24 THE WITNESS: That makes it simple.

25 MS. HARTMEN-TELLEZ: I think I will ask my

1 question again.

2 MR. BARR: I just thought I'd move it along.

3 BY MS. HARTMEN-TELLEZ:

4 Q. Exhibit 2 is ARS 16-549 which you testified you
5 didn't have much familiarity with; is that correct?

6 A. Right.

7 Q. But you did look it over during your deposition?

8 A. Yes.

9 Q. And do you understand it to provide a procedure
10 for voters who are disabled or who are ill on election day
11 to vote with a special election board?

12 MR. BARR: I'm going to object to the extent
13 it mischaracterizes his testimony.

14 THE WITNESS: Yes.

15 BY MS. HARTMEN-TELLEZ:

16 Q. And HB2023 will not prohibit you from assisting
17 a voter in complying with the procedures in that statute?

18 A. Will not affect me in assisting them?

19 Q. Will not prohibit you from assisting a voter who
20 wants to comply with the procedures in that law?

21 A. Yes.

22 Q. It will -- it will --

23 A. I'm trying to understand what you're asking me
24 about.

25 Q. I'm sorry.

1 A. Are you talking about the exceptions?

2 Q. No, I'm sorry. I'm talking about 16-549 which
3 is Exhibit 2. Maybe if you can pull it out of the stack
4 there to refresh your memory.

5 A. There it is.

6 Q. So that's the statute about special election
7 boards for disabled or ill voters.

8 A. Okay.

9 Q. If a disabled or ill voter were to ask you for
10 assistance in complying with the statute to have a special
11 election board come to them, HB2023 won't prevent you from
12 doing that?

13 A. No.

14 Q. Are you aware that a disabled voter who goes to
15 a polling place but due too their disability is unable to
16 enter the polling place can vote curbside?

17 A. No.

18 Q. Going back to Exhibit 1. On page 2 of
19 Exhibit 1, paragraph 6 of your declaration -- in the fifth
20 paragraph, sorry -- the fifth sentence of paragraph 6, it
21 says: "Some voters were distrustful of the postal
22 service."

23 A. Uh-huh.

24 Q. Do you know why?

25 A. That was in reference to what I testified

EXHIBIT 17

Absentee and Early Voting
Trends, Promises, and Perils

John C. Fortier

The AEI Press

Publisher for the American Enterprise Institute

WASHINGTON, D.C.

2006

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The Pitfalls of Absentee and Early Voting

The move to increase absentee and early voting has been driven by a desire to make voting more convenient. Even though the vast body of academic research shows that convenience voting makes little or no impact on voter turnout, the aim of facilitating the vote for those who find it difficult to get to an election-day voting booth is a laudable one.

As we have seen, the task of the reformers who first introduced absentee voting was more urgent than today's calls for greater convenience in voting. Before the absentee ballot, certain people like soldiers in the field or railroad workers were unable to vote, so adoption of absentee voting was a necessity for them.

Today, almost every eligible American has an opportunity to vote, but reformers worry that there are obstacles to voting—not insurmountable ones, but discouragements nonetheless. Why not, say reformers, make voting easier for the elderly, the busy single working mom, or the person living in a rural area far from a polling station?

It is tempting to say that the motivations of the early reformers were superior to and of a wholly different kind than those of today's advocates of preelection voting. But, in truth, they hold a great deal in common. Both were and are interested in removing obstacles placed in the way of voting. Both were and are problem-solvers, advocating real-world solutions to help citizens vote.

The great difference between the two is a question of balance. Even though the stakes were very high during the Civil War and at the beginning of the twentieth century, proponents of the absentee

52 ABSENTEE AND EARLY VOTING

ballot tried to balance the access to the vote with their concerns about the integrity of the ballot.

Only this balancing of priorities explains how the procedures for voting by absentee ballot came about. In most states, voters were asked to provide an acceptable reason for voting absentee, and they were expected to go before a notary public with a blank ballot and then proceed to fill it out—not so the notary could see a voter's choices, but rather could attest to the fact that the ballot had been cast freely. The notary might also be able to weed out someone who would impersonate another voter, or seek to cast a ballot for a dead or nonexistent person.

Today, the motivation to remove obstacles to voting is often not balanced with concerns about the integrity of the ballot, the protection of the secret ballot, and other goods that derive from voting at an election-day polling place.

This chapter will examine the problems of absentee and early voting. The first part will consider the potential for fraud and coercion in absentee voting. It will also examine the troubling role of intermediaries in the absentee-ballot process. Finally, it will consider the worst-case scenario of absentee-ballot fraud corrupting an election.

The second part of the chapter will consider two problems raised by both absentee and early voting. As both occur before election day, they threaten to undermine the civic character of a single election day, and they raise the possibility of voters casting votes without having all the information provided by a full election campaign.

Fraud and Coercion and Absentee Ballots

Vote fraud is difficult to detect, to measure accurately, and to prove. The discussion of the importance of fraud can also be politically divisive, as in the current controversy over whether states should require photo ID cards at polling places.

There is little evidence of systematic and widespread election fraud. Those concerned with voter fraud do not claim that it threatens to undermine every election across the country. Conspiracies to alter the outcomes of elections are not lurking around every corner.

THE PITFALLS OF ABSENTEE AND EARLY VOTING 53

In fact, common sense tells us that the incentives to commit election fraud are only significant in somewhat competitive elections where the fraud might have a chance of affecting the outcome of the race. Given the great number of uncompetitive federal, state, and local elections in the United States, the concern is not that fraud is widespread, but that it is possible, and that if it were to occur it would not only undermine the results of a particular election, but would undermine confidence in elections in general.

On the other side of this argument are those who believe voter fraud is a small problem, especially when compared to the bad effects of trying to crack down on it excessively. The requirement of photo identification at the polling place is where this debate reaches a fever pitch, with proponents finding it necessary to verify that only eligible voters are voting, and opponents arguing that because not everyone possesses photo ID, such a law would disenfranchise many.

While there will always be disagreement over the seriousness of election fraud in general, both sides to this argument agree on one important matter: The most likely avenue for voter fraud is absentee balloting, which offers more opportunities for it than the traditional polling place.

Spencer Overton, for example, a member of the Carter-Baker Commission on Federal Election Reform, argued strenuously against and ultimately publicly dissented from the commission's recommendation to require photo identification at the polling place. In the course of his argument, he noted that the commission had its fraud protections backwards, because it was satisfied with a check of a voter's signature for absentee ballots but would ultimately require a photo ID at the polling place. The Carter-Baker plan, he wrote,

proposes that voters be able to verify their identity [at the polling place] using a signature match, but it would eliminate that option after 2009 while recommending a permanent signature match for absentee voters. This double standard is particularly disturbing because whites are much more likely than blacks to

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vote absentee, *and because the potential for fraud is greater with absentee ballots* [emphasis mine].¹

John Fund, who is on the other side of the photo ID debate and is generally concerned with the possibility of fraud in the electoral system, also agrees that the most serious opportunities for fraud are presented by absentee voting: “Absentee ballots,” he says, “represent the biggest source of potential election fraud because of the way they are obtained and voted.”²

Susceptibility of Absentee Votes to Fraud

The main reason absentee ballots are susceptible to fraud is the separation of both ballot and voter from the polling place, with all of its integrity and privacy protections.

At a polling place today, the ballot is secure. Voters must present themselves and at least declare who they are in person. In many states, they may have to show a form of identification. The ballot is not to be handled by poll workers, other voters, party officials, spouses, relatives, or companions of the voter. The voter casts or deposits the ballot without assistance, in a privacy booth or curtained stall that allows him or her to do so in complete secrecy. No one can influence the voter while voting, nor see the completed ballot.³

Absentee ballots have none of these protections. The early reformers tried to address the problem by requiring that voters provide approved reasons to vote absentee and find a notary public who would attest to the fact that the ballot was cast freely.⁴ Even so, fraud could not be avoided. From the earliest use of absentee ballots, these questions of security have been raised. During the Civil War, agents of Horatio Seymour, Democratic governor of New York, were charged with entering hospitals where soldiers had been admitted, impersonating the soldiers, forging their names, and casting ballots for them.⁵

Similar fraud occurs today. In 2005, a Connecticut state representative admitted that he “illegally induced elderly residents of

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the Betty Knox housing complex in Hartford to cast absentee ballots for him.”⁶ And, in connection with the closely contested Washington State governor’s race in 2004, two people were prosecuted in King County for having cast absentee ballots for their deceased spouses. This was not widespread corruption. Both admitted to having cast the ballots in honor of their spouses. Even so, neither forged signature was caught by election officials at the time, so the votes were counted.⁷

To cite yet another case, John Fund, in his book on election fraud, describes some of the problems with the Miami mayoral election of 1998. A number of voters were paid to vote. One elderly political boss was found with over one hundred absentee ballots in his home.⁸ And recently, in Wise County, Virginia, three elected officials were charged with over nine hundred counts of voter fraud. The major charges were that they had filled out absentee ballot applications for other citizens, intercepted the ballots in the mail, and voted the ballots for their preferred candidates.⁹

Absentee Ballots and Coercion

Absentee ballots leave open the possibility of voter coercion. While there is no indication that coercion is any more widespread than fraud, without the privacy protections of the voting booth, absentee voters could be subject to other parties pressuring them to vote a particular way. And as the ballot is potentially available for anyone to see, the perpetrator of coercion can ensure it is cast “properly,” unlike at a polling place, where a voter can promise his associates he will vote one way but then go behind the privacy curtain and vote his conscience.

One recent example involved outright vote-buying. In an East Chicago mayoral race in 2003, the challenger had beaten the incumbent in the polling-place vote but ended up losing the election based on the absentee vote. The challenger’s volunteers uncovered instances of absentee fraud, including that of a woman who allowed a campaign worker to fill out her ballot in exchange for a \$100 job at the polls. One hundred fifty-five absentee ballots were

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ultimately thrown out, although this was not enough to change the outcome of the election.¹⁰

Coercion can also take the form of an individual threatening another to “properly fill out the ballot.” This might include the subtle coercion of a husband who wants to make sure his wife has not made any mistakes on her ballot. Absentee ballots can also be subject to pressure from a citizen’s company or union. Take the case of a “helpful” ballot-filling-out party, where likeminded workers get together to talk about issues and complete their ballots. Of course, since the absentee ballot has left the privacy of the polling place, all of an attending voter’s colleagues may be able to see how he voted and express approval or disapproval.

Role of Third-Party Intermediaries in Absentee Ballots

As we have seen, Eric Oliver’s study of voter turnout and absentee voting found that the use of no-excuses absentee ballots did not in itself cause a rise in turnout in the elections he looked at, but that turnout rose when no-excuses absentee balloting was combined with political party mobilization. In particular, he cited party officials sending completed absentee ballot applications to prospective voters of their parties.¹¹

The connection between the political parties’ “get out the vote” efforts and preelection voting is becoming a significant factor in elections. In 2004, both parties knew the possibilities for early and absentee voting in each state and used them to their advantage. For example, President George W. Bush, in a taped phone message to Wisconsin Republicans, urged them to vote absentee. The Democratic Party in Iowa was adept at encouraging its voters to cast absentee ballots. Starting in the summer, party volunteers would call party voters to encourage them to vote absentee. If a voter agreed, a volunteer would show up at the voter’s door that day with the ballot application.¹²

It is in the interest of both parties to lock as many of their voters in as they can before election day. Why risk the possibility that loyal voters will not go to the polls on election day when you can secure

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their votes early? In the fall of 2004, Iowa Democratic chairman Gordon Fischer argued, “We’ve got to bank as many votes as possible before November 2.”¹³

In addition to the political parties themselves, other groups encouraged preelection voting in 2004. The independent Democratic-leaning group America Coming Together (ACT), for example, made a substantial effort to get Democratic voters to vote before election day. The head of the group, Jim Jordan, indicated that ACT had “thousands and thousands of employees going door to door in the battleground states and they talk to virtually everyone about early voting and vote-by-mail.” Jordan’s reason for this echoed the sentiment of party operatives that loyal voters should be locked in: “One of the primary advantages is simply to bank votes—better to have the bird in the hand.”¹⁴

Clint Reed, who worked on the Republican Party’s campaign in Arkansas in 2004, indicated another advantage for parties. If they can lock in loyal voters early, they can then dedicate more resources to other voters in the last few days of the campaign: “You can spend the last 72 hours of your campaign, or the last 96 hours, or the last two weeks, focusing on those independent swing voters.”¹⁵

Laws with respect to the handling of absentee ballots vary widely from state to state, but there have been troubling cases of third-party misdeeds. Michael Moss reported in the *New York Times* that it was becoming a common practice for the parties to hold absentee ballots before turning them in to county registrars for processing. The stated reason for doing so is to time voting messages and advertisements to the arrival of absentee ballots in voters’ hands. A county judge in Arizona found that a campaign consultant had held onto fourteen thousand absentee-ballot applications.¹⁶ There are also serious concerns that campaign workers might pick up absentee ballots from voters but only selectively turn some in for processing.

Overall, the parties have many incentives to act as intermediaries in procuring absentee ballots, but there are troubling questions about their involvement.

Disqualifying Absentee Ballots

The consequences of fraud associated with absentee voting have occasionally gone beyond the particular ballots affected. In two Florida elections, the problems were so deep that a judge threw out all of the absentee ballots in one case and the whole election in the other.

In a very close Miami mayoral race in 1998, absentee votes provided the margin of victory for Xavier Suarez over Joe Carrollo. But such rampant absentee-ballot fraud was discovered that a judge ended up throwing out all of the absentee ballots—over four thousand—and handing the election to Carollo.¹⁷ In 1993, in Hialeah, Florida, a judge called a new election because the absentee ballots were tainted.

Protections against Fraud for Absentee Ballots

There are two primary protections against fraud in absentee ballots. First, the Help America Vote Act now requires that someone who both registers and votes by mail must at some point show up in person with identification—something that could be avoided in some states prior to the act's passage in 2002. The concern addressed by the act was, of course, that fictitious names would be registered and absentee ballots cast on their behalf.

The second protection against fraud is the signature check. Unfortunately, according to John Mark Hansen, former director of the National Commission on Federal Election Reform co-chaired by former presidents Gerald Ford and Jimmy Carter, “For practical reasons, most states do not routinely check signatures either on applications or on returned ballots, just as most states do not verify signatures or require proof of identity at the polls.”¹⁸ This raises questions not only about absentee ballots, but also regarding protections against fraud at the polling place, although there has been a recent move by states to institute identification requirements.

Oregon votes essentially 100 percent by mail, so it is subject to some of the same concerns as high-absentee states. But Oregon

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has an advantage over other high-absentee states in preventing fraud, in part because of the nature of its system, and in part because of the state's own good practices. Oregon does not avoid all potential for fraud, but it has done a good job compared to its counterparts.

Paul Gronke surveyed practices of election officials in Oregon aimed at reducing the possibility of fraud. First, Gronke noted, Oregon, unlike every other state, has essentially a unitary system. It does not have to maintain a polling-place voting system or an early-voting system; it votes totally by mail.¹⁹ Because of this, Oregon election officials are good at what they do. For the same reason, Oregon does not have to deal with the problem of monitoring voters who might, for example, try to vote absentee and then show up in person on election day.²⁰

Second, Gronke tells us, Oregon has a universal signature check. Every ballot is checked for a signature match, poll workers are required to undergo training in signature identification, and there are procedures for resolving disputed signatures. And third, as Oregon has a vote-by-mail system, it mails ballots directly to voters. Voters do not apply for their ballots; they receive them if they are registered. There is no place for intermediaries to apply for or deliver ballots to voters, and the state does not allow them to be forwarded through the mail. If undeliverable, they must be returned to the state, which can use that information to update their voting records.²¹

While its delivery of the vote-by-mail ballots is less susceptible to fraud than traditional absentee ballots, Oregon still has had a problem with drop-off sites for ballots. Since the voter must return the ballot to Oregon, it could potentially be intercepted by a third party, or political parties might act as intermediaries delivering ballots to drop-off sites.

In his study, Gronke expressed concern about unofficial drop-off boxes (many of which are probably legitimate); subsequently, the state legislature passed legislation to deal with the problem.²² And while Oregon's signature check is more thorough than other states', it is not clear if fraud involving forgeries and impersonations would be detected.

Loss of Civic Day of Election

There is no doubt that we have moved significantly away from holding a single election day in many states. A civic day when the community comes together to make important public decisions has psychological value for the nation.

But there are two further, related reasons to lament the loss of such a day. First, research has shown that in addition to thinking about the obstacles that prevent people from voting, we should consider the positives that bring people to the polls. A body of research has developed to identify factors that prompt citizens to vote. Donald Green and Alan Gerber have conducted many experiments in contacting voters with an eye to getting them to the polls. They have found that voter contact does increase turnout rates. Mail and phone banks can have an effect, but the effect is more pronounced when there are multiple personal contacts coming from people within the community. Or, as Green and Gerber put it, “A personal approach to mobilizing voters is generally more effective than an impersonal approach.”²³ Related research by Green and others is looking at election-day parties near the polling place as a way to increase turnout. Very preliminary results also showed a positive effect. This finding again underscores the positive value of a celebrated, community-oriented election. The work on the positive draws to voting could indicate turnout will drop off if voters have a longer period of time to vote or have to cast a vote in an impersonal manner. Or, at least, it might indicate that alternatives to election-day voting should incorporate a personal aspect.

A second, related value of a single, civic election day is its intensity. Gans emphasizes this point in two ways. First, voter interest might wane in an extended voting period. Second, the institutions that turn out voters might be less well-mobilized over a longer, less intense period. We have seen that parties are adapting to new early- and absentee-voting procedures, so a longer election period is certainly not discouraging voter mobilization. But it may be that both voter interest and turnout efforts might be more effective on a single day or for a shorter period.

Voting before the Campaign Has Ended

In addition to diminishing the civic character of a single election day, the ability to vote early may lead substantial numbers of voters to miss out on important information in the campaign. This is an issue with both absentee and early voting, but for the former in particular, as absentee-voting periods are almost always longer than those for early voting. Bolstering this concern is evidence that voting more than a week before the election is on the rise. But it is still true that most pre-election-day voters vote in the week before the election, and those who cast their votes early tend to be more partisan, more knowledgeable about issues, and less subject to campaign persuasion. Despite these caveats, a shorter period of pre-election-day voting would minimize the loss of election day as a civic day and would mean that fewer voters would miss out on important campaign information.

Conclusion

Absentee ballots are subject to a number of fraud and coercion issues not relevant to polling-place voting. Early voting at a polling place does not produce as many troubling questions as absentee voting. Many people make use of absentee and early voting, and it is unlikely these methods will wither away. The challenge is to balance the good that comes with the convenience of preelection voting with the worries about fraud that accompany absentee balloting in particular.

The separation of absentee ballots from the polling place raises apprehensions about the forging of signatures, the manipulation of elderly voters, and the handling of ballots by third parties, including the political parties. Absentee voters can be pressured by their spouses, unions, companies, friends, or social groups. There have even been cases of all of the absentee ballots from an election being disqualified, and of an entire election being rerun because of doubts about the integrity of the absentee ballots.

Early voting is not subject to many of these issues, because the ballot never leaves the polling place. However, both absentee voting

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and early voting are subject to two concerns: first, that the move to more pre-election-day voting will diminish election day as a civic day, and, second, that voting before election day might make some voters miss the full course of the campaign and thus prevent them from hearing as much as they should from the candidates.

With regard to the civic day, there is a practical concern that voting before election day might spread the election too thin over too extended a period. This might make voter mobilization more difficult and dampen voter interest, especially for states whose early and absentee voting begins over six weeks before the election.

The question of voters missing out on important information in the campaign by voting early is a particular concern for absentee voting, where ballots can be mailed to voters at least forty-five days before an election. It is true that most absentee and early polling place voters cast their ballots in the week before the election, and that those who vote early tend to be more partisan, more knowledgeable about issues, and less subject to campaign persuasion. Even so, there have been troubling signs of a trend toward voting even earlier. A shorter period of pre-election-day voting would mean that fewer voters would miss important campaign information, and it would minimize the loss of election day as a civic day as well.

28. “Be Heard: National Poll,” <http://www.whytuesday.org/nationalpoll.html> (accessed April 1, 2006).

29. *Ibid.*

30. See table 3-1. Note also that 7 percent or so said registration problems kept them from voting. While these results may point to an argument for greater convenience in registration, this study is more focused on convenience related to voting before election day.

31. James G. Gimpel, Ann Marie Leonetti, Joshua J. Dyck, and Daron R. Shaw, “Location, Knowledge and Time Pressures in the Spatial Structure of Convenience Voting,” *Electoral Studies* 25, no. 1 (March 2006): 35–58.

Chapter 4: The Pitfalls of Absentee and Early Voting

1. Spencer Overton, “The Carter-Baker ID Card Proposal: Worse than Georgia,” *Roll Call*, September 28, 2005.

2. John Fund, *Stealing Elections: How Voter Fraud Threatens Our Democracy* (San Francisco: Encounter Books, 2004), 145.

3. One exception to this rule is that a disabled voter may request assistance from another person in casting a ballot. But this exception proves the rule, because disability groups are among the strongest advocates for technology that allows all voters to cast votes themselves without assistance.

4. See chapter 1.

5. A longer account is available in Fortier and Ornstein, “The Absentee Ballot and the Secret Ballot,” 496.

6. *Hartford Courant*, “Absentee Voting Corruption,” June 11, 2004, A14.

7. Norm Maleng (King County prosecuting attorney), remarks at Double Voters Press Conference, Seattle, Washington, June 2, 2005, <http://www.metrokc.gov/proatty/news/2005/repeatvotingtp.htm> (accessed August 15, 2006).

8. Fund, *Stealing Elections*, 48–49.

9. Rex Bowman, “Town Officials in Wise County Indicted: Appalachia Mayor, 13 Others Charged with Fixing 2004 Election,” *Richmond Times-Dispatch*, March 3, 2006.

10. Michael Moss, “Absentee Votes Worry Officials as Nov. 2 Nears,” *New York Times*, September 13, 2004.

11. Oliver, “The Effects of Eligibility Restrictions,” 499.

12. John McCormick and Jeff Zeleny, “Parties’ Clarion Call; Vote Early, Vote Early,” *Chicago Tribune*, September 22, 2004, C1.

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13. Robert Tanner, “Call It Election Month: Growing Numbers of Early Voters Transforming Campaigns,” Associated Press, September 11, 2004.

14. *Ibid.*

15. *Ibid.*

16. Moss, “Absentee Votes Worry Officials.”

17. *In Re: The Matter of the Protest of Election Returns and Absentee Ballots in the November 4, 1997 Election For the City of Miami, Florida*, Case No. 98-507, District Court of Appeal of Florida, Third District.

18. John Mark Hansen quoted in Moss, “Absentee Votes Worry Officials.”

19. There are some very slight exceptions to this rule. Oregon is also required to provide handicapped-accessible voting machines, but this affects an extremely small percentage of the vote.

20. Paul Gronke, “Ballot Integrity and Voting by Mail: The Oregon Experience.” Report to the Commission on Federal Election Reform, Early Voting Information Center, Reed College, June 15, 2005, <http://www.sos.state.or.us/executive/CarterBaker.pdf> (accessed April 14, 2006).

21. *Ibid.*

22. *Ibid.*

23. Donald Green and Alan Gerber, *Get Out the Vote!: How to Increase Voter Turnout* (Washington, D.C.: Brookings, 2004), 34–41.

24. *Ibid.*, 9

25. See chapter 2.

26. *Ibid.*

Conclusions and Recommendations

1. Robert Stein and Greg Vonnahme, “Election Day Vote Centers and Voter Turnout,” paper presented at the 2006 annual meeting of the Midwest Political Science Association, Chicago, Ill. April 20–23, <http://www.brookings.edu/gs/projects/electionreform/20060418Stein.pdf> (accessed August 13, 2006).

2. Gronke, “Ballot Integrity and Voting by Mail.”

EXHIBIT 18

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18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE DISTRICT OF ARIZONA

20 Leslie Feldman, et al.,

21 Plaintiffs,

22 v.

23 Arizona Secretary of State's Office, et al.,

24 Defendants.

No. CV-16-01065-DLR-PHX-DLR

**DECLARATION OF GARY
RAMIREZ**

25 Under 28 U.S.C. § 1746, I, Gary Ramirez, declare as follows:

26 1. I am over 18 years of age and a resident of Maricopa County, Arizona.

27 2. Except where indicated, I state the following of my own knowledge and if
called upon to do so, could testify competently to the following.

28 3. I am employed as a GIS Specialist in the Elections Department of the

1 Maricopa County Recorder's Office, a position I have held for approximately nine years.
2 I have worked for the Elections Department for approximately 18 years. Except as
3 expressly stated, I make this Declaration based on my personal knowledge and if called
4 upon, could and would testify competently to the matters herein.
5

6 4. In 2012, on an evening during the early voting period, a man knocked on
7 the door of my home and asked to collect my early ballot. He told me that he was with
8 the Elections Department.
9

10 5. At the time, I had recently returned home from work and was still wearing
11 my Elections Department shirt and ID badge. I told the man that I did not believe he
12 worked for the Elections Department because I work there, and it is a small department.
13 The man became flustered and quickly left.
14

15 6. When I returned to work, I informed my colleague Rey Valenzuela about
16 the ballot collector who had come to my home and represented himself as a County
17 employee. I believe that Elections Director Karen Osborne may also have been in the
18 vicinity when I told Mr. Valenzuela about the incident.
19

20
21 I declare under penalty of perjury under the laws of the United States and the State
22 of Arizona that the foregoing is true and correct.

23 EXECUTED this 18 day of July, 2016 in Phoenix, Arizona.

24
25 
26 Gary Ramirez
27
28

EXHIBIT B

CV16-1065-DLR TELEPHONIC DISCOVERY DISPUTE 7-18-16

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Leslie Feldman, et al,)
)
Plaintiff,)
) CV16-1065-PHX-DLR
) Phoenix, Arizona
vs.) July 18, 2016
) 2:03 p.m.
Arizona Secretary of State's)
Office, et al.,)
)
Defendant.)

BEFORE: THE HONORABLE DOUGLAS L. RAYES, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TELEPHONIC DISCOVERY DISPUTE/STATUS CONFERENCE

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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

CV16-1065-DLR TELEPHONIC DISCOVERY DISPUTE 7-18-16

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CV16-1065-DLR TELEPHONIC DISCOVERY DISPUTE 7-18-16

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CV16-1065-DLR TELEPHONIC DISCOVERY DISPUTE 7-18-16

P R O C E E D I N G S

(Called to the order of court at 2:03 p.m.)

THE CLERK: Civil case No. 16-1065. *Feldman and others v. Arizona Secretary of State's Office and others* on for a telephonic discovery dispute hearing and status conference.

Would the parties please announce for the record.

MR. KAUL: Your Honor, on behalf of the plaintiffs, this is Josh Kaul, Dan Barr, and Sarah Gonski from Perkins Coie.

MR. GORDON: And on behalf of the Sanders plaintiffs, Your Honor, Andy Gordon and Roopali Desai from Coppersmith Brockelman.

MR. DRISCOLL-MacEACHRON: Your Honor, on behalf of the Secretary of State and the Attorney General's Office, this is James Driscoll-MacEachron and with me is Karen Hartman-Tellez.

MS. CONNOR: Your Honor, this is Colleen Connor for the Maricopa County defendants.

MR. JOHNSON: And, Your Honor, this is Brett Johnson and Sara Agne on behalf of the Arizona Republican Party and the Individual Intervenors.

THE COURT: Good afternoon. Let's just take care of the first couple things. There's a motion that was filed for an extra day. I'm going to grant that motion. So that

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1 request is granted.

2 Then we have a request for this telephonic conference
3 regarding the expert testimony at the September 2nd hearing.

4 Here is what we're going to do. I'll leave the day
5 open, but I'm not going to -- we're not going to have
6 additional evidence unless there's a good cause showing made
7 ahead of time.

8 We have already set this up the way it's been set up
9 and it's set primarily for oral argument. I'll set aside the
10 day, but I need to know that there is a good cause before we
11 go ahead and decide on what we're going to do with the
12 additional testimony, if that becomes necessary.

13 All right. Now, is there a discovery dispute?

14 MR. GORDON: There is, Your Honor. This is Andy
15 Gordon.

16 We, on behalf of the plaintiffs, served a 30(b)(6)
17 Notice of Deposition on the Republican Party. We had about --
18 we had 13 categories of testimony we were seeking.

19 In response to that -- Well, let me back up, Your
20 Honor. There's a two-prong issue here. One is the scope of
21 the deposition and then is what topics will be covered; and
22 secondly, when that deposition will occur.

23 As I said, there were originally 13 topics on the
24 table. The Republican Party responded. They didn't object to
25 five of the topics initially. We took one off the table

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1 because it's not necessary for the H.B. 2023 hearing and this
2 deposition is focused on matters that involve the Preliminary
3 Injunction on H.B. 2023.

4 That leaves six topics in dispute. In two of those
5 topics which go to what evidence the Republican Party has
6 regarding discriminatory or suppressive effects of H.B. 2023,
7 in our Notice of Deposition we referenced the affirmative
8 defenses in the Answer that the Republican Party ultimately
9 didn't file and Your Honor is familiar with that. We had
10 referenced as affirmative defenses because it was the easiest
11 way to shorthand the topics we were talking about.

12 The Republicans then objected on the grounds, well,
13 the Answer was never filed, therefore, you can't do that. And
14 we said, of course, you can.

15 This goes directly to issues that involve our views
16 on 2023, that is, whether the Republican Party has evidence as
17 to its discriminatory or suppressive effect or whether it
18 disproportionately burdens minorities. And that's where they
19 were on that particular one.

20 The other objections were we asked directly about
21 evidence they had regarding communications and the like, both
22 with legislators and the Secretary of State, on H.B. 2023.
23 And then we used the phrase "its predecessor bills."

24 They objected that that was too broad because some of
25 the predecessor bills -- and we specifically referred to the

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1 bills we were talking about, Your Honor -- involved other
2 subjects. We said no, no, we just want the part in the
3 predecessor bills that relate to ballot collection, but they
4 have not agreed on that subject.

5 And then there was an objection that going back that
6 we had not date-limited how far back we wanted to go. We
7 initially said we would go back to 2010. They said that's too
8 burdensome. They didn't have anyone around who knew the
9 history that far back. We pointed out the Party Chair
10 Mr. Graham has been there since at least January 1, 2013.

11 The other issue, which frankly, is probably the more
12 contentious one right now, is when the deposition would take
13 place.

14 We were trying to take the deposition this week. The
15 Republican Party doesn't want to take it, not too
16 surprisingly, Monday through Thursday of this week, because
17 all their people are in Cleveland at the convention.

18 Friday is not available to us because both Ms. Desai
19 and I are gone. We can't really alter that.

20 We suggest, well, what if we just take it next week?
21 Take a little bit of the time pressure off. And then if
22 something comes up in the deposition that's relevant to our
23 reply brief, which is now due a week from today, we'll just
24 file a brief supplement focusing only on the facts developed
25 during the deposition. And Mr. Johnson wouldn't agree with

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1 that. And that's where we are.

2 THE COURT: All right. Okay. Who is going to
3 respond to that? Mr. Johnson?

4 MR. JOHNSON: Yes, Your Honor, thank you.

5 I think if we go back up and back in time as to our
6 initial back and forth in regard to this 30(b)(6), and as the
7 Court is well aware, and raised in pleadings early on right
8 when the Republican Party got involved in the case -- it was
9 actually raised by the State -- discovery during a Preliminary
10 Injunction hearing is limited.

11 In our opinion, this is a fishing expedition that's
12 meant to just purely embarrass the Republican Party, especially
13 when, unlike all the depositions so far in this case and the
14 depositions that are scheduled, they want to video record it.

15 So basically, it's fishing expeditions basically
16 telling the Court that the government actors don't have the
17 data to support the claims, the plaintiffs do not have the
18 data, so maybe the Republican Party has the data.

19 But this is inappropriate. They're not asking for
20 data. They're asking for whether or not the data exists.
21 Therefore, it's almost impossible to determine whether, after
22 a deposition, to gather the data before the August 3rd
23 hearing.

24 In addition, the timing of this is completely
25 suspect. The Republican Party has been part of this case for

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1 quite some time. They could have asked for the depo all
2 along. During the initial case status conference where we
3 talked about depositions it was never brought up and --

4 THE COURT: Mr. Johnson. Mr. Johnson.

5 MR. JOHNSON: Yes?

6 THE COURT: Can I interrupt you? I'm not sure what
7 position or issue you're arguing about. Are you talking about
8 the requests for the 30(b)(6) deposition that requests
9 evidence of discriminatory effect of the H.B. 2023?

10 MR. JOHNSON: Your Honor, if it was absent, then I
11 apologize. I wanted to give you the background to our initial
12 objections.

13 THE COURT: Okay.

14 MR. JOHNSON: And then we did agree that, hey, we are
15 a party to the case. We will do a 30(b)(6). But we think
16 that the deposition should be limited to the Complaint,
17 including H.B. 2023, even the out-of-voting precinct claims or
18 even the PPE versus the general election claims.

19 We don't think it's appropriate for them to seek a
20 fishing expedition of discovery outside the confines of this
21 Complaint, whether it be an affirmative defense that now we
22 filed a motion to dismiss and there's a dispositive motion
23 pending, or other things that will not be discussed during the
24 August 3rd or even the September 2nd hearing.

25 We think it needs to be limited towards the

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1 Complaint. And obviously, you just heard from Mr. Gordon that
2 he believes that historical contracts going back, I believe he
3 said six years, is appropriate. We do not agree to that
4 scope, especially for discovery before a Preliminary
5 Injunction hearing.

6 In regard to his second argument that they are not
7 available on Friday afternoon, I have -- the Court has already
8 gone to great lengths to accommodate their request for
9 scheduling. In fact, if you remember correctly, Your Honor,
10 when I had a conflict, you know, the Court's time and the need
11 to get this case moving along took precedence, which I
12 completely understand.

13 So I don't know exactly what Mr. Gordon or
14 Ms. Desai's scheduling issues are, but I think that Friday
15 afternoon when the staff is back from the convention is
16 completely appropriate, especially at this late hour.

17 In addition, if something comes up, then we can
18 obviously address it with the Court as to whether or not there
19 needs to be additional or supplemental briefing. But at this
20 point, supplemental briefing would not be appropriate because
21 it would appear to be just another attempt to get additional
22 pages that the Court has already ruled upon.

23 So at the end of the day, Your Honor, for the
24 30(b)(6) we're willing to do it on Friday. We are
25 accommodating their schedules but we do think that it needs to

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1 be limited to this Complaint.

2 THE COURT: Okay.

3 MR. DRISCOLL-MacEACHRON: And, Your Honor, if I may?

4 THE COURT: Who is speaking please?

5 MR. DRISCOLL-MacEACHRON: This is James

6 Driscoll-MacEachron on behalf of the State defendants. I

7 don't have much to add in terms of the propriety of the

8 30(b)(6) deposition topics otherwise referenced.

9 We did provide authority during this litigation about
10 the scope of discovery in the Preliminary Injunction context.
11 Our primary concern is with the idea that there will be
12 additional briefing outside of the deadlines currently set by
13 the Court.

14 Any briefs after the deadline set will cut into our
15 ability to prepare for the oral argument as was previously
16 referenced. If they thought there was discoverable
17 information here, they could have raised it much earlier. But
18 now we're talking about doing discovery in the week before the
19 reply and pushing then more information into the following
20 week which will limit the amount of time available for
21 preparation for oral argument.

22 THE COURT: All right. Well, my first question is
23 what is wrong with Friday for the deposition?

24 MR. GORDON: I'm sorry, Your Honor, I could not --
25 this is Andy Gordon. I couldn't understand your question.

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1 THE COURT: Why is Friday not a good day for the
2 deposition?

3 MR. GORDON: Well, to be honest with you, Your Honor,
4 because I'm in Ohio with my 94-year-old mother at a family
5 reunion that's been scheduled a long time and Ms. Desai is
6 also out of town.

7 We have been trying to get this deposition since June
8 30th. And every time we do it, Mr. Johnson comes up with
9 another request for a conference or another delay. And
10 finally, they lead -- we gave them dates this week and
11 tomorrow and they said, well, their folks are out of town in
12 Cleveland. Well, I'm sorry, we are out of town for one day
13 too. We weren't trying to jamb it.

14 And secondly, on the supplement, what we're saying is
15 all we're asking -- if we push it into next week, the only
16 supplement we would file is references to the page of the
17 brief we're already going to file with these facts, if any are
18 developed that are relevant, and you know, we've got time to
19 consider this. But they're the ones that left us with Friday
20 afternoon.

21 THE COURT: Well, I'll give you the choice,
22 Mr. Gordon. You can do it either Friday afternoon or next
23 week but there's not going to be an extension for additional
24 briefing.

25 MR. KAUL: Your Honor, this is Josh Kaul on behalf of

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1 the plaintiffs other than the Bernie 2016 plaintiffs. A
2 related issue that I think this is perhaps a good point to
3 raise.

4 In light of the number of extensions for the
5 defendants' filings, one of the things we had requested in our
6 opposition was that if their deadline is being extended by a
7 day, that all deadlines also be extended by a day.

8 THE COURT: Okay. And that's fair. If I give them a
9 day, I'll give you an additional day as well.

10 MR. GORDON: Okay. Your Honor. That takes care of
11 the problem. We can take the deposition Tuesday afternoon or
12 Wednesday of next week.

13 THE COURT: Okay. I'll leave that up to you guys to
14 schedule. But I did give the defendants an additional day, so
15 I will add a day to the plaintiffs' reply.

16 MR. KAUL: Thank you, Your Honor.

17 The related issue I was going to raise was that we --

18 THE COURT: Hold on. Who is speaking please?

19 MR. KAUL: I'm sorry. This is Josh Kaul on behalf of
20 the plaintiffs other than the Bernie 2016 plaintiffs.

21 The other issue that we were going to raise that's
22 related to that is that we and the defendants have worked
23 together to set time slots for potential depositions of the
24 defense experts during the week before our reply brief is due
25 since we will just be getting those expert reports tomorrow.

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1 In light of the number of extensions, we were hoping
2 that the Court would order the defendants, or that the
3 defendants would agree, to make those experts available a day
4 later, if necessary.

5 The only reason we ask for that is that one of the
6 depositions, I believe, is slotted for Wednesday, for
7 instance. And since we won't be getting those reports until
8 tomorrow, that won't give us much time to prepare for those
9 depositions.

10 THE COURT: I'm having a hard time understanding,
11 Mr. Kaul. Are you on a cell phone?

12 MR. KAUL: I'm not, Your Honor.

13 Your Honor, is that better?

14 THE COURT: Yeah. I can hear you, but it was mushed,
15 so I really wasn't understanding what you were saying.

16 MR. KAUL: I apologize. I picked up my phone here.

17 What I was saying is we have agreed with the
18 defendants to slate in tentative dates for expert depositions
19 this coming week.

20 THE COURT: Hold on. Stop. Stop. You've agreed to
21 what? I didn't understand the words you used. "Slick in"?

22 MR. KAUL: I'm sorry. Slate in tentative dates for
23 the depositions of defense experts.

24 THE COURT: All right.

25 MR. KAUL: And we were hoping to either get an

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1 agreement from the defendants or an order from the Court that
2 they be willing, if necessary, to move those back a day in
3 light of the extra day for the filing.

4 MR. JOHNSON: Your Honor, this is Brett Johnson for
5 the Republican Party.

6 The only deposition that we can change, which is the
7 one I think he probably has issues with, which is July 25 --
8 20th, I apologize, that is going to be for Chris Letto and we
9 can move that. He was available to move to July 25th.

10 The other ones are not able to move. One is at his
11 daughter's wedding and the other one is going to actually be
12 at the Democratic National Convention next week with several
13 of Josh's colleagues.

14 THE COURT: So I'm not sure what you're asking to do,
15 Mr. Kaul.

16 MR. KAUL: Well, we have dates that the defense
17 counsel had provided for depositions for the defense experts.
18 They provided us a particular day for each of them.

19 One of them, for example, Dr. Hood, I believe, is
20 currently slated to be deposed on Thursday of this week. We
21 were hoping, potentially, to have an extra day, that is, on
22 Friday to take his deposition since we're not going to get his
23 report in light of the extension until Tuesday.

24 I believe Mr. Trende is later, so that's a nonissue.

25 THE COURT: I'm still having a hard time

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1 understanding you.

2 What are you asking me to do?

3 MR. KAUL: To order defendants to make Mr. Hood
4 available, I guess, the next day, if necessary. We haven't
5 looked at the schedule to be able to work with them, but we
6 haven't received his expert report yet, so we just don't know
7 how long it's going to take us to go through and analyze it
8 and prepare for his deposition.

9 THE COURT: Okay. Let me see if I understand.

10 Dr. Hood's report is coming in next week on Tuesday;
11 is that right?

12 MR. KAUL: Tomorrow.

13 THE COURT: Tomorrow?

14 MR. JOHNSON: Your Honor, this is Brett Johnson, the
15 Republican Party. We will stipulate -- it's going to be out
16 of context, of course, as I'm sure Your Honor appreciates. We
17 will get him Dr. Hood's expert report by close of business
18 today to avoid any kind of delay in him attending his
19 daughter's wedding.

20 THE COURT: Okay. That should take care of it. That
21 resolves the problem doesn't it, Mr. Kaul?

22 MR. KAUL: It does. That's perfect. Thank you.

23 THE COURT: All right. Well, thank you. So what we
24 have left is the 30(b)(6) categories. Is that what's left to
25 resolve now?

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1 MR. DRISCOLL-MacEACHRON: Your Honor, this is Jim
2 Driscoll-MacEachron on behalf of the State defendants.

3 As the briefing schedule has developed, I just want
4 to clarify what the deadline for the State's brief should be.
5 We're intending to file today, if possible, but the briefing
6 schedule is now adjusted so that the brief -- the response
7 briefs are due tomorrow and reply briefs are extended a day as
8 well.

9 Does that same deadline apply to the State brief?

10 THE COURT: Same deadline apply to who?

11 MR. DRISCOLL-MacEACHRON: The State defendants'
12 brief?

13 THE COURT: Yes. Okay. And the reply brief has been
14 moved to -- by a day as well and the oral argument remains the
15 same.

16 All right. Now, we've got the issue left to resolve
17 regarding the 30(b)(6) categories and topics.

18 First question for the defense, you're objecting
19 to -- is it that the request for evidence of discrimination --
20 discriminatory effect of H.B. 2023 -- is that what you have
21 been asked to produce a witness to testify to?

22 MR. JOHNSON: No, Your Honor. It is much broader
23 than that. I'll give you an example. No. 11, which is one
24 area where we could not come to consensus at all, is
25 Republican's research analysis, reports, studies, documents,

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1 communications, strategies, and information relating to voting
2 patterns of Latinos and other minority populations in Arizona.

3 Nothing to do with this lawsuit.

4 THE COURT: Okay. Mr. Gordon?

5 MR. GORDON: Your Honor, until we see what the
6 evidence is, we don't know. I will say that everything I'm
7 going to be asking is related to 2023. And it seems to us in
8 light of how hard the Republican Party lobbied this Bill -- we
9 think for the reason of suppressing minority voters -- that if
10 they have it -- and I don't know whether they have it yet --
11 that's the purpose of discovery, of course -- is whether their
12 research or analysis on voting patterns of Latinos and
13 minorities reflect the voting patterns of minorities,
14 including the use of vote-by-mail and ballot collection.

15 You know, maybe it doesn't. I don't know, but it
16 could well.

17 MR. KAUL: And, Your Honor, this is Josh Kaul on
18 behalf of the other plaintiffs.

19 It's our view that the voting patterns of minority
20 voters are at the heart of this case. They're a central issue
21 both in terms of figuring out whether these laws impose a
22 disparate burden on minority voters, which is centrally
23 relevant to the Voting Rights Act claim, and because they go
24 to the question of whether there is racially polarized
25 loading, which is another central issue in assessing the

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1 totality of the circumstances here.

2 So frankly, we don't understand the relevance
3 objection at all with respect to this evidence.

4 THE COURT: Okay. What is -- is relevance the only
5 objection then?

6 MR. GORDON: Yes. Relevance was their objection.

7 THE COURT: Okay. Well, I think it is relevant. I
8 think it's something that I will allow the 30(b)(6) deposition
9 to go into, and so the objection to that is overruled.

10 Anything else?

11 MR. KAUL: And, Your Honor, with respect to the
12 Court's initial ruling about the hearing and whether there
13 will be evidence presented in the September hearing, I just
14 wanted to make sure that we are all on the same page with
15 respect to what the Court would like to see for a good-cause
16 showing, if necessary.

17 This is Josh Kaul, I'm sorry, for the plaintiffs.

18 Our plan is that once we see the defendants'
19 responsive filings in August, to analyze those and make an
20 assessment about whether we think an evidentiary presentation
21 would facilitate the process for the Court since the time is
22 going to be quite limited following the submission of the
23 reply and between the hearing and when a decision will need to
24 be issued and we plan to submit something to the Court at that
25 point.

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1 But the main reason we wanted to raise this issue now
2 is to make sure that everybody is on notice that we may be
3 doing that later, so that there's no argument down the road
4 that the defendants didn't have time to prepare for a
5 potential evidentiary hearing.

6 And so I just want to reemphasize here on the record
7 that that -- you know, we are putting everybody on notice now
8 so that there is no claim of surprise down the road.

9 THE COURT: Well, my concern is this.

10 We have the limited time, maybe six hours at most if
11 we set aside the whole day, and we've got two -- I mean, the
12 defense may want to put on their experts as well.

13 So it's a matter of will there be enough time to do
14 it and is it fair to the defense to find out at the last
15 minute that you are putting on evidence and that they may want
16 to decide to put on their own evidence.

17 MR. KAUL: And, Your Honor, we understand that
18 concern. If we did put on evidence, it would be a truncated
19 presentation, certainly, one or perhaps two of our experts. I
20 can tell defense right now the ones we would most likely put
21 on would be Dr. Rodden and perhaps Dr. Yang.

22 If we did call them, we would emphasize just a few
23 points in their reports. And the reason we think that that
24 may be helpful is that there's going to be a bunch of paper
25 filed within the ten or twelve days before the hearing. And

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1 based on the deadline that the State has provided, there will
2 only be a few weeks after that hearing for the decision to
3 issue.

4 And so to the extent that that live presentation of
5 critical evidence and if the key points might help crystallize
6 what exactly the dispute is, we just wanted to, like I said,
7 give notice so that this won't come as a surprise down the
8 road to anybody.

9 THE COURT: Well, frankly, I think I could figure it
10 out if you'd put it in the papers. If you have affidavits or
11 some sort of declaration or report from your experts and you
12 highlighted that for us at the hearing, I think we'll
13 understand it.

14 MR. KAUL: Well, and, Your Honor, certainly we
15 recognize that. The only thing we were thinking is there may
16 be disputed points of facts between the experts, for instance,
17 where one experts states that another expert used a certain
18 approach and our expert disputes that; and which having an
19 expert live that could answer any questions the Court might
20 have would potentially be helpful.

21 To the extent that the Court thinks that's not
22 helpful, then we're happy to take that guidance from the
23 Court.

24 MS. CONNOR: Your Honor, this is Colleen Connor with
25 Maricopa County. May speak on that issue?

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1 THE COURT: Yes.

2 MS. CONNOR: The Primary Election Day is August 30th.
3 The September 2nd hearing is just three days later. After the
4 primary election there has to be a hand count within 24 hours.

5 It would be a severe hardship on the County to have
6 multiple people, including two of the named defendants, to sit
7 in an full-day evidentiary hearing.

8 THE COURT: Okay. Yes. Let's keep it the way we
9 have it set now. Oral argument. You can get your experts'
10 reports, opinions, and affidavits in and highlight them for
11 me, the areas that you think I really need to focus on, and I
12 think we will be fine. Okay?

13 MR. KAUL: Thank you, Your Honor.

14 THE COURT: All right. Is there anything else to
15 take up?

16 MR. GORDON: Thank you, Your Honor.

17 THE COURT: Is the 30(b)(6) deposition clear now what
18 you guys are going to do?

19 MR. GORDON: Yes. We're e-mailing and trading dates
20 next week back and forth.

21 THE COURT: Okay.

22 MR. JOHNSON: Real quick, Your Honor, if I may? This
23 is Brett Johnson for the Republican Party.

24 Andy, I think earlier when the Judge made his ruling,
25 you mentioned that we could do it on the 25th or 26th because

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1 the Court only moved the day one day.

2 MR. GORDON: Yeah, Brett, that was a mistake. I just
3 e-mailed you and suggested Tuesday afternoon, the 26th.

4 MR. JOHNSON: No problem. Thank you.

5 Sorry, Your Honor.

6 THE COURT: Okay. Then we will stand in recess.

7 MR. DRISCOLL-MacEACHRON: My apologies, Your Honor.

8 This is Jim Driscoll-MacEachron on behalf of the State
9 defendants.

10 I do apologize for drawing this out a little bit
11 longer. I just wanted to clarify a point because it sounds
12 like it may come up closer to the hearing.

13 The way I understand the schedules, there aren't
14 reply expert reports anticipated and I think that would be
15 pretty unusual in a situation where we already have expert and
16 rebuttal expert reports scheduled.

17 Are the plaintiffs contemplating having reply expert
18 reports before the hearing now as well?

19 MR. KAUL: We are absolutely contemplating that.

20 MR. DRISCOLL-MacEACHRON: The State would object to
21 that. I think that that's -- I mean that's not even part of
22 the standard Case Management Order. I don't see how that
23 would happen under the limited expedited discovery that we
24 have here for a Preliminary Injunction motion.

25 THE COURT: I'm sorry. Can you resay that again?

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1 You kind -- it was hard to hear what you said.

2 MR. DRISCOLL-MacEACHRON: My apologizes, Your Honor.
3 This is Jim Driscoll-MacEachron, again, on behalf of the State
4 defendants.

5 If the plaintiffs are contemplating additional reply
6 expert reports after the expert reports and rebuttal reports
7 that have been permitted in this limited framed expedited
8 discovery for Preliminary Injunction motion, the State would
9 object to that.

10 The plaintiffs have had all the time they needed to
11 put the information they believe shows their case into their
12 motion and their expert reports.

13 There will be rebuttal reports to point out flaws
14 there, but I don't see a reason for them to get a second bite
15 of the apple to produce yet another report that we would again
16 not have a chance to respond to in that extraordinarily
17 limited time to get to our rebuttal expert to respond to
18 whatever new information they provide in time for the hearing.

19 I think the schedule as it's set out has: They are
20 providing their expert testimony and we are providing rebuttal
21 expert testimony. And that should be sufficient for the
22 argument. We can argue about the relative strength of each
23 report at oral argument, but I don't see reason in the
24 schedule for additional expert analysis.

25 MR. KAUL: Your Honor, this is Josh Kaul on behalf of

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1 the plaintiffs. There is room in the schedule which is that
2 we have reply briefs and a deadline for those and we would
3 submit the reply expert reports along with that reply brief.

4 And this is contrary to the point we were just
5 discussing, I think, which is that to the extent there are
6 disputed issues, we can highlight those in the filings and
7 bring them to the Court's attention.

8 And so we can't do that if we don't have a chance to
9 reply to what the defense has submitted.

10 THE COURT: Well, the plaintiff has the burden of
11 proof and they get to go last, so they'll get a chance to
12 reply. But if they bring up things that weren't addressed
13 initially, as is typical of the case, you can't do that.

14 If you are addressing the response from the
15 defendants and their experts, that's fine; but there's no new
16 issues coming up in your reply.

17 MR. DRISCOLL-MacEACHRON: And, Your Honor, I'm sorry.

18 Just to clarify, when you say "their reply,"
19 traditionally there's not new, as you said, in their evidence
20 and reply brief, are you then contemplating a reply expert
21 report as well that is limited to those issues?

22 It seems like it would be perfectly adequate for them
23 to put any argument they have into their reply brief, which is
24 typical in any briefing schedule.

25 THE COURT: You know, your words are being kind of

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1 run together and I'm not understanding you.

2 Can you say that again but slowly?

3 MR. DRISCOLL-MacEACHRON: Yes, and my apologies, Your
4 Honor. Just to clarify, I have no objection to them including
5 responses to our response brief and our response expert
6 reports in the reply brief as is typical in a briefing
7 pattern.

8 My concern is that it sounds like they're
9 contemplating an additional piece of evidence, an additional
10 expert report, and that's not the way reply briefs typically
11 work. With your reply brief, you can put what you want in
12 your reply brief. But if they are going to attach new expert
13 analysis, it seems like by definition that's going outside the
14 scope of the reply brief.

15 MR. KAUL: This is Josh Kaul. The Court just ruled
16 on this issue. I'm a little confused. But as the Court just
17 said, their reply briefs will address issues raised in their
18 response, expert reports, and are typical in litigation, so we
19 disagree, I guess, with that categorization.

20 THE COURT: Well, I guess the question he's raising
21 and I have: Are you anticipating replying with new opinions
22 that haven't been disclosed in your expert reports?

23 MR. KAUL: We are not anticipating, Your Honor,
24 introducing opinions that go beyond the scope of the opinions
25 that are contained in the original expert reports.

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1 But it's our assumption that the rebuttal expert
2 reports will raise criticisms of our expert's initial reports.
3 And so in the reply reports, we would take the opportunity to
4 address those criticisms that have been raised in response,
5 expert reports, just as we would in a reply briefing.

6 THE COURT: Okay. But you will have those reply
7 reports done before the briefing, right?

8 MR. KAUL: Our plan, Your Honor, would be to submit
9 them with the reply briefs since they would be in response to
10 the defense expert reports which we will be getting today and
11 tomorrow.

12 THE COURT: So are you planning to attach affidavits
13 that the defendants haven't seen in your reply?

14 MR. KAUL: Potentially, Your honor. Frankly, we were
15 waiting to see what the defense expert reports say before we
16 decide --

17 THE COURT: Well --

18 MR. KAUL: -- how best to approach that.

19 THE COURT: If you are going to have reply expert
20 opinions to the defense experts, they need to be submitted and
21 disclosed before the defense files their response brief.

22 MR. KAUL: Your Honor, we aren't going get the --
23 this is Josh Kaul -- we aren't going to get the defendants'
24 response expert reports until we get their response briefs.
25 And so we won't be able to know what's going to be in their

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1 reply until we receive that brief.

2 THE COURT: Okay. All right. The briefing schedule
3 is set up so that the opinions of the experts will be
4 disclosed for the first time in their response brief?

5 MR. KAUL: That's right. We won't get the defense
6 expert reports until essentially contemporaneous with when we
7 get the defense response briefs.

8 THE COURT: All right. Well, I don't know. How does
9 the defense propose that the plaintiffs deal with experts
10 attacking the plaintiffs' experts if they don't get a chance
11 to respond to it?

12 MR. DRISCOLL-MacEACHRON: Your Honor, this is James
13 Driscoll-MacEachron on behalf of the State defendants.

14 I generally have no objection to them including in
15 their reply brief any assertions of inadequacies in the
16 arguments or the analysis that's provided in our response,
17 briefing response, expert reports.

18 But if they're having additional expert report, then
19 that's -- I'm quite concerned about what that does to the
20 schedule.

21 I also want to say it wasn't clear until just that
22 last comment that apparently the plaintiffs are anticipating
23 doing this in advance of this round of briefing as well.

24 And I think that is something that should play into
25 our --

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1 THE COURT: Hold on. Hold on. You need to restate
2 that and say it more slowly because our phone system isn't as
3 fast as you are.

4 MR. DRISCOLL-MacEACHRON: My apologies.

5 I was saying that on the general question, that's
6 what the reply brief is for. If they are having an additional
7 affidavit that includes additional analysis, then we will then
8 need to do additional analysis of that additional analysis
9 before the oral argument. And that's going to be very
10 difficult on this accelerated schedule.

11 The second point that I made was that I believe in
12 the last comments made by plaintiffs' counsel, he suggested
13 they're planning the same format for his briefing on the 2023
14 motion.

15 And given the extension that they just received for
16 the reply brief, that gives us even less time to consider the
17 information that we will be getting for the first time, and
18 apparently, in an affidavit attached to their reply brief.

19 But that's the reason I'm more concerned on this
20 round of briefing when we were originally talking about the
21 briefing for the motions to be argued on September 2nd.

22 THE COURT: Well, I'm troubled by both aspects of it,
23 but I think we need to deal with it. The aspects I'm troubled
24 with is that you would get the response brief and for the
25 first time the plaintiffs will see the expert opinions that

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1 they're dealing with from the defense and they don't have a
2 chance to address those in their reply.

3 And then on the other hand, in the reply brief, it
4 would be the same for the defendants.

5 But since the plaintiffs do have the burden of proof,
6 I'm going to allow them to address in their reply with expert
7 opinions that address those opinions raised by the defense,
8 but no -- they can't go outside those opinions.

9 In other words, they can address their concerns about
10 what the defense experts say, but they can't come up with any
11 additional opinions outside that.

12 Okay? Anything else? All right.

13 We'll stand at recess.

14 (Proceedings adjourned at 2:41 p.m.)

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C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 18th day of July, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE

EXHIBIT C

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

Leslie Feldman, et al.,)	Case No. 16-16698
)	
Plaintiffs,)	
	)	DECLARATION OF
v.	)	ERIC SPENCER IN SUPPORT OF
	)	JOINT RESPONSE TO
Arizona Secretary of State’s Office, et	)	PLAINTIFFS’ EMERGENCY
al.,	)	MOTION FOR INJUNCTION
	)	PENDING APPEAL AND
Defendants.	)	EXPEDITED APPEAL
)	
)	
)	
)	

I, Eric Spencer, declare:

1. I am the Election Director for the Arizona Secretary of State. I have personal knowledge of the facts stated herein and if called upon, could testify competently to them.

2. I have worked as Election Director for the Secretary since January 2015. As Election Director, my duties include overseeing responses to public concerns and complaints and ensuring the office complies with its statutory duties for elections.

3. During the Primary Election early voting period, beginning August 3, 2016 and ending at 7:00 p.m. on August 30, 2016, the Election Division's staff was available to address questions and concerns from the public about the election and voting. As always, this includes complaints about potential voter harassment and intimidation.

4. The Election Division did not receive any phone calls, emails or letters from voters claiming harassment or intimidation—or any similar impediment—when casting or returning their ballots during the early voting period.

5. For each Election Day, the Secretary's office maintains a call log with brief summaries of any voter complaints we receive from callers.

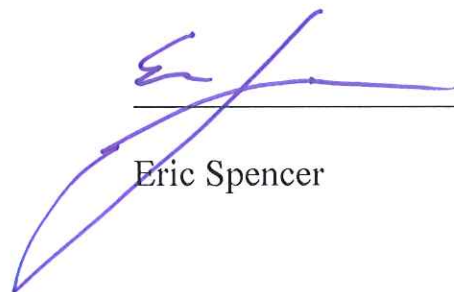
6. I have reviewed the call log for the 2016 Primary Election, which does not reflect any calls complaining about intimidation or harassment of a person delivering ballots to a polling place.

7. I have also reviewed the email inbox for elections@azsos.gov and find no example of any emails that reference ballot-related harassment or intimidation.

8. To my knowledge, none of the Election Division staff received any reports of voter harassment or intimidation when delivering early ballots to a polling place. If such conduct had been reported, it would have been investigated by the Election Division.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

EXECUTED this 6th day of October, 2016 in Phoenix, Arizona.



Eric Spencer